

ESTTA Tracking number: **ESTTA615701**

Filing date: **07/15/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053501
Party	Plaintiff Christian M. Ziebarth
Correspondence Address	KELLY K PFEIFFER AMEZCUA-MOLL ASSOCIATES PC LINCOLN PROFESSIONAL CENTER, 1122 E LINCOLN AVE SUITE 203 ORANGE, CA 92865 UNITED STATES kelly@amalaw.net
Submission	Other Motions/Papers
Filer's Name	Kelly K. Pfeiffer
Filer's e-mail	kelly@amalaw.net
Signature	/Kelly K. Pfeiffer/
Date	07/15/2014
Attachments	Chillingworth Testimony - public 7-15-14 (sm).pdf(5147799 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 1043729  
Date of Registration: July 13, 1976

---

CHRISTIAN M. ZIEBARTH  
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC  
Registrant.

---

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**PETITIONER'S NOTICE OF FILING CROSS-EXAMINATION TESTIMONY  
OF NOAH CHILLINGWORTH AND EXHIBITS**

Pursuant to Rule 703.01 of the Trademark Trial and Appeal Board Manual of Procedure and Trademark Rules 2.123(h), Petitioner CHRISTIAN M. ZIEBARTH ("Petitioner"), by his counsel, hereby files the cross-examination testimony of Noah Chillingworth and accompanying Exhibits 11, 29, 30, 31, and S-Y.

Please note that Exhibits 30 and 31 have been marked as CONFIDENTIAL, and therefore have been filed separately under seal in accordance with the Stipulated Protective Order filed with the Board on June 12, 2012 and Trademark Rule 2.126(c). In addition, the portion of the testimony of Mr. Chillingworth set forth below has been marked CONFIDENTIAL and is also being separately filed under seal pursuant to the Stipulated Protective Order and Trademark Rule 2.126(c).

CONFIDENTIAL Deposition Testimony:

•93:5 to 126:21

CHRISTIAN M. ZIEBARTH

By /Kelly K. Pfeiffer/

Attorney for Petitioner

Kelly K. Pfeiffer

AMEZCUA-MOLL & ASSOCIATES, P.C.

Lincoln Professional Center

1122 E. Lincoln Ave., Suite 203

Orange, CA 92865

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **PETITIONER'S NOTICE OF FILING CROSS EXAMINATION TESTIMONY OF NOAH CHILLINGWORTH AND EXHIBITS** was served upon April L. Besl, DINSMORE & SHOHL, LLP, attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on July 15, 2014 and addressed as follows:

April L. Besl, Esq.  
DINSMORE & SHOHL, LLP  
255 East Fifth Street, Suite 1900  
Cincinnati, OH 45202

/Kelly K. Pfeiffer/  
Kelly K. Pfeiffer  
AMEZCUA-MOLL & ASSOCIATES, P.C.  
Lincoln Professional Center  
1122 E. Lincoln Ave., Suite 203  
Orange, CA 92865  
Attorney for Petitioner CHRISTIAN M. ZIEBARTH

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

CHRISTIAN M. ZIEBARTH,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Reg. No. 1,043,729
	)	
	)	Cancellation No. 92053501
DEL TACO LLC,	)	
	)	
Respondent.	)	
_____	)	

CROSS-EXAMINATION DEPOSITION OF:

NOAH CHILLINGWORTH

Monday, March 24, 2014

Reported by:

Stephanie Leslie  
CSR No. 12893

1                   IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2                   TRADEMARK TRIAL AND APPEAL BOARD

3  
4  
5           CHRISTIAN M. ZIEBARTH,           )  
6    Petitioner,           )  
7           vs.                                ) Reg. No. 1,043,729  
8    )  
9           DEL TACO LLC,                    )  
10    Respondent.           )  
  \_\_\_\_\_)

11  
12  
13  
14  
15                   The Cross-Examination Deposition of NOAH  
16           CHILLINGWORTH, taken on behalf of the Petitioner,  
17           before Stephanie Leslie, Certified Shorthand Reporter  
18           12893, for the State of California, commencing at  
19           9:34 a.m., Monday, March 24, 2014, at 1122 East Lincoln  
20           Avenue, Suite 203, Orange, California.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES:

For Petitioner:

AMEZCUA-MOLL & ASSOCIATES, PC  
By: Kelly Pfeiffer  
Rose Amezcua-Moll  
Attorneys at Law  
1122 East Lincoln Avenue, Suite 203  
Orange, California 92865  
(714) 288-2826

For Respondent:

DINSMORE & SHOHL  
By: April Besl  
Attorney at Law  
255 East Fifth Street, Suite 1900  
Cincinnati, Ohio 45202  
(513) 977-8527

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

Examination by:	Page
Ms. Pfeiffer	6, 49, 61, 65, 129
Ms. Amezcua-Moll	35, 60, 63
Ms. Besl	119

E X H I B I T S

Petitioner's	Description	Introduced
11-	"Viva Naugles, Viva Del Taco" Menu	56
29-	Color Photographs of Naugles Cap and T-shirt	15
30-	PowerPoint Presentation Slides	93
31-	Marketing Presentation by Idea Planet	109
- - -		
S-	Notice of Cross-Examination	7
T-	Testimony Affidavit	7
U-	Respondent's Notice of Reliance, 1/14/14	12
V-	Internet Screenshot of Naugles T-shirt	26
W-	Internet Screenshot of Naugles Cap	30
X-	Respondent's Notice of Reliance, 1/16/14	69
Y-	Internet Screenshots of "History"	80



1 Monday, March 24, 2014, 9:34 a.m.

2 Orange, California

3

4 NOAH CHILLINGWORTH,

5 was called as a witness by and on behalf of the  
6 Petitioner, and having been first duly sworn by the  
7 Certified Shorthand Reporter, was examined and  
8 testified as follows:

9

10 MS. PFEIFFER: Good morning, everyone. This  
11 live cross-examination testimony that we're taking  
12 today is in connection with the pending cancellation  
13 proceeding initiated by Petitioner Christian Ziebarth  
14 against Del Taco with regard to Del Taco's registered  
15 trademark for Naugles in restaurant services.

16 My name's Kelly Pfeiffer. I'm counsel for  
17 Petitioner. Should we just --

18 MS. AMEZCUA-MOLL: Sure. Rose Amezcua-Moll,  
19 also on behalf of Petitioner.

20 MR. TANG: Jack Tang, counsel for Del Taco.

21 MS. BESL: April Besl, counsel for Del Taco.

22 THE WITNESS: And Noah Chillingworth, VP of  
23 marketing for Del Taco.

24

25 //

EXAMINATION

BY MS. PFEIFFER:

Q So I guess I don't need to ask you to state your name. Good morning, Mr. Chillingworth.

A Good morning.

Q Just before we get started, have you -- are you familiar with this kind of setting? Have you had your deposition taken before?

A I have not.

Q So just some basic ground rules really quick, all your responses need to be verbal. So, like, a shake of the head or a shoulder shrug obviously won't translate written. Also, if you could give clear "yeses" or "nos." The "uh-huhs" and "huh-uhs" don't make for a good transcript.

Let's see. I'm going to ask you a lot of questions today that you may or may not have personal knowledge of. I'm entitled to your estimate, but I don't want you to guess. So just as the boilerplate example that all lawyers give, the difference between an estimate and a guess: If I asked you to estimate the length of this conference table, you could look at the table and make your own best estimate. If I asked you to give me the length of the coffee table in my house, you have no frame of reference, so that would be

1 a guess. So that's about it.

2 I'm handing you a document that we will mark  
3 as Petitioner's S, as in Sam. We have an ongoing list  
4 of exhibits, A, B, C for us and 1, 2, 3 for Del Taco.  
5 So we're going to keep going for clarity's sake for  
6 when we are writing briefs.

7 (Whereupon, Petitioner's Exhibit S was  
8 marked for identification.)

9 BY MS. PFEIFFER:

10 Q Have you seen this document before?

11 A I think so.

12 Q You have not seen that document before?

13 A (Witness shakes head).

14 Q Okay. Go ahead and set it aside.

15 A I don't think so.

16 Q Okay. Go ahead and set it aside. I'm going  
17 to hand you another document that we will mark as  
18 Petitioner's Exhibit T, as in Tom.

19 (Whereupon, Petitioner's Exhibit T was  
20 marked for identification.)

21 BY MS. PFEIFFER:

22 Q Have you seen this document before?

23 A Yes, I have.

24 Q And what is it?

25 A It's my affidavit of my testimony.

1 Q Did you draft this document yourself?

2 A What do you mean?

3 Q Are you the one that drafted this document?

4 A It is my statements, yes.

5 Q Did you have help drafting this document?

6 A Yes.

7 Q Who helped you draft this document?

8 A My legal counsel.

9 MS. BESL: Objection to the extent it calls  
10 for any attorney-client privilege.

11 BY MS. PFEIFFER:

12 Q Which -- both legal counsel present here  
13 today?

14 A Yes.

15 Q So you -- both Ms. Besl and Mr. Tang helped  
16 you draft this document?

17 A Yes.

18 Q You read through this document carefully after  
19 they finalized a draft?

20 A Yes.

21 Q So this represents accurate testimony of the  
22 facts as you know them?

23 A Yes.

24 Q All right. Turning to paragraph one of your  
25 affidavit here, it states that you are president of

1 marketing for Del Taco, the respondent in this  
2 proceeding; is that correct?

3 A That is correct.

4 Q How long have you held this position?

5 A Since about -- for vice president of  
6 marketing?

7 Q Yes.

8 A I think about three years now.

9 Q Where do you work geographically?

10 A In Lake Forest, California.

11 Q And that's Del Taco's corporate headquarters;  
12 is that correct?

13 A Yes.

14 Q As vice president of marketing, what do your  
15 duties entail?

16 A It's a long list, so marketing promotions,  
17 advertising of the Del Taco brand.

18 Q And to whom do you report?

19 A The chief brand officer.

20 Q And who is that?

21 A John Cappasola.

22 Q Do you know who previously held the position  
23 that you currently hold?

24 A John Cappasola did.

25 Q And now he is the chief brand officer; is that

1 correct?

2 A Uh-huh.

3 Q Paragraph one of your affidavit also states  
4 that you previously served as senior director of brand  
5 marketing and advertising for Del Taco; is that  
6 correct?

7 A Yes.

8 Q When did you begin that job?

9 A February of 2009.

10 Q Did you hold that job right up until the point  
11 where you became VP of marketing?

12 A Yes.

13 Q And what were your duties as the senior  
14 director of brand marketing and advertising?

15 A Similar to what I do now, just, you know,  
16 differing degrees of responsibility. So marketing,  
17 advertising, and promotion for Del Taco.

18 Q Is there only one senior director of brand  
19 marketing and advertising? You were it?

20 A I was it, yes.

21 Q So you and Mr. Cappasola have been working  
22 together at Del Taco in marketing for a while?

23 A Yes.

24 Q Were you in marketing prior to 2009, when you  
25 began working for Del Taco?

1 A Yes.

2 Q Could you tell me where, please?

3 A Taco Bell.

4 Q And when did you work for Taco Bell?

5 A I worked for them from 2004 to 2009.

6 Q And what was your job title there? If there  
7 were different ones, let me know.

8 A Field marketing director, one title.

9 Q That's the only position you held for that  
10 time, approximately five years?

11 A Yes.

12 Q And what was your job description there?

13 A Work with franchisees to drive sales in the  
14 western division of Taco Bell.

15 Q Okay. Please turn to paragraph 2 of your  
16 affidavit. On the first page the last sentence reads  
17 "I am informed and believe that since 1995 Del Taco has  
18 used the Naugles mark in advertising and on clothing."  
19 Did I read that correctly?

20 A It looks like it, yes.

21 Q And is that still your testimony today?

22 A Uh-huh.

23 MS. AMEZCUA-MOLL: We need audible answers.

24 THE WITNESS: Oh. Sorry. Yes.

25 MS. AMEZCUA-MOLL: It's intended to be less

1 formal, but it helps Stephanie over there to get a  
2 clear record. Thank you.

3 MS. PFEIFFER: Can we go off the record for a  
4 minute?

5 (Recess.)

6 MS. PFEIFFER: Back on.

7 BY MS. PFEIFFER:

8 Q I am handing you a document that we are going  
9 to mark as Petitioner's Exhibit U.

10 (Whereupon, Petitioner's Exhibit U was  
11 marked for identification.)

12 BY MS. PFEIFFER:

13 Q Take a moment to look this over, please, and  
14 let me know if you've ever seen this document before.

15 A It looks familiar.

16 Q Do you know what it is?

17 A I do not. It looks like a trademark  
18 registration.

19 Q It looks familiar, so you have seen this  
20 document before; correct?

21 A I don't remember.

22 Q Okay. Could you please turn to page 3 of this  
23 document. And I'll represent to you this is a  
24 trademark registration.

25 A Okay.



1           Q     If you look next to the phrase "international  
2     class 25," you'll see that this registration indicates  
3     that Del Taco uses the Naugles mark for, quote/unquote,  
4     "clothing," comma, "namely shirts, T-shirts, hats, and  
5     jackets in class 25." Is that correct?

6           A     What page am I on?

7           Q     Page 3.

8           A     Oh. Sorry. Got it. Yes.

9           Q     And if you look in the line below it next to  
10    the word "trademark," you'll see that this registration  
11    indicates -- or states "first use, September 15th,  
12    2011." Do you see that?

13          A     I do.

14          Q     Do you understand that that -- this  
15    registration represents that Del Taco began using  
16    Naugles in relation to these items --

17          A     Yes.

18          Q     -- on this date?

19                MS. BESL: Wait. Objection to the extent it  
20    calls for a legal conclusion.

21    BY MS. PFEIFFER:

22          Q     Okay. I forgot to say this, quickly, and this  
23    is just common. I will do you the courtesy of not  
24    talking over you if you would do the same, because it  
25    makes it hard for the reporter to take it down. I know

1           we do it in normal conversation, but we have to try to  
2           be careful. So thank you.

3           A     Got it.

4           Q     To the best of your knowledge, is this a true  
5           statement on this registration, that Del Taco first  
6           sold clothing bearing the Naugles mark in commerce in  
7           the United States on September 15th, 2011?

8           A     Yes.

9           Q     You were working for Del Taco, correct, in the  
10          marketing department?

11          A     Correct.

12          Q     Do you have any reason to believe that this  
13          information reflected on the registration is incorrect  
14          in any way?

15          A     I do not.

16          Q     Again, to the best of your knowledge, were the  
17          first sales in September of 2011 online or in  
18          brick-and-mortar stores or both?

19          A     Online.

20          Q     Online exclusively?

21          A     Yes.

22          Q     So no clothing items were sold in Del Taco  
23          restaurants or retail shops?

24          A     Correct.

25          Q     Does Del Taco, in fact, presently still sell

1 clothing bearing the word "Naugles"?

2 A Yes.

3 Q Again on page 3, if you look next to the  
4 phrase "principal register," it states "The mark  
5 consists of standard characters without claim to any  
6 particular font, size, or color"; is that correct? Did  
7 I read that correctly?

8 A It looks like it, yes.

9 Q I'm going to hand you what has been previously  
10 marked as Del Taco's Exhibit 29 as quickly as I can.

11 MS. PFEIFFER: Sorry. Some of my copies, only  
12 three of them, are in color, so I wanted to make sure  
13 at least that Noah had one.

14 MS. BESL: That's okay.

15 (Whereupon, Petitioner's Exhibit 29 was  
16 marked for identification.)

17 BY MS. PFEIFFER:

18 Q Could you take a look at those pictures,  
19 please. This exhibit was attached to your affidavit;  
20 is that correct?

21 A Yes.

22 Q What is Exhibit 29?

23 A A picture of a hat and a picture of a T-shirt.

24 Q Did you take either or both of these pictures?

25 A I did not.

1 Q Do you know who did?

2 A I do not.

3 Q Do you know when those pictures were taken?

4 A I do not.

5 Q Have you seen those pictures before?

6 A Yes.

7 Q Where have you seen those pictures before?

8 A I believe as part of my affidavit.

9 Q And prior to that you had never seen those

10 pictures?

11 A I do not believe so.

12 Q Did you provide those pictures to go along

13 with your affidavit?

14 A I did not.

15 Q Who provided them to you?

16 A I do not know.

17 Q You don't know who gave you these documents?

18 A I do not know for sure.

19 Q In both the T-shirt shown and the hat in this

20 Exhibit 29, the word "Naugles" is displayed in the

21 exact same font; is that correct?

22 A Yes.

23 Q Has Del Taco ever sold clothing displaying the

24 word "Naugles" in a different font or style than what

25 you've seen here?

1           A     I don't know for sure.

2           Q     Who would know?

3                     MS. BESL:  Objection.  Calls for speculation.

4                     THE WITNESS:  I don't know.

5  BY MS. PFEIFFER:

6           Q     So Del Taco began selling these hats and  
7  shirts in 2011; correct?

8           A     Yes.

9           Q     And you've been working in marketing for  
10 Del Taco since prior to that; correct?

11          A     Yes.

12          Q     But you don't know who -- you don't have  
13 knowledge of whether you sell items that market  
14 clothing bearing the Naugles mark?

15                     MS. BESL:  Objection.  I think that misstates  
16 his testimony.

17  BY MS. PFEIFFER:

18          Q     Go ahead and --

19                     MS. BESL:  I thought you were asking about the  
20 specific font.

21                     MS. PFEIFFER:  Right.

22  BY MS. PFEIFFER:

23          Q     I'm trying to find out if Del Taco sells  
24 clothing bearing the word "Naugles" in other --  
25 displayed in a different way, other fonts.  And since

1 Del Taco has only been selling clothing bearing the  
2 word "Naugles" since 2011 and you've been there since  
3 prior and you do marketing in the campaigns and  
4 whatnot, if you don't know -- if you can't answer that  
5 question, then who can?

6 MS. AMEZCUA-MOLL: If you know.

7 BY MS. PFEIFFER:

8 Q If you know.

9 A We sell these items. You asked if we ever had  
10 sold anything else, so that's why I said I don't know  
11 if we had ever sold Naugles items bearing another font.  
12 These are the items we sell currently and have since  
13 2011.

14 Q Okay. You understand that the trademark  
15 registration that Del Taco owns indicates that you  
16 first began selling clothing items bearing the Naugles  
17 mark in 2011; correct?

18 MS. BESL: I'm just going to leave one  
19 objection, because I think you're relying on a  
20 first-use state, which is under, technically, the  
21 trademark office as to when you can claim the first-use  
22 state. So just to the extent that's being used as an  
23 official bar for the first use or first sales -- I  
24 think his testimony's been alluding otherwise, so I  
25 just wanted to lay an objection as to application of

1 the trademark rules.

2 MS. PFEIFFER: Okay.

3 MS. AMEZCUA-MOLL: For purposes of the  
4 objections, if we could just use the legal objections  
5 and not speaking, as to not imply any coaching of the  
6 witness, and we'll do the same.

7 MS. BESL: Will do.

8 MS. AMEZCUA-MOLL: Thank you.

9 BY MS. PFEIFFER:

10 Q Were you aware that clothing was being sold  
11 bearing the Naugles mark prior to 2011 at any time?

12 A I am not.

13 Q So it's your testimony today that your own  
14 personal knowledge is that prior to 2011, Del Taco, at  
15 least as far as you know, never sold clothing items  
16 bearing the Naugles mark?

17 A As far as I know.

18 Q Where does Del Taco sell these shirts and hats  
19 shown in Exhibit 29?

20 A Our online store.

21 Q Again, online only?

22 A Yes.

23 Q Where are these shirts and hats produced?

24 A Produced? I don't know exactly.

25 Q Do you know if they're produced in the U.S.?

1           A     I don't know for sure.

2           Q     Who would know?

3           A     Our vendor partner we work with.

4           Q     Who is your vendor partner's liaison in your  
5 marketing department?

6           A     That person is no longer with the company, so  
7 I would have to talk to the vendor partner to find out  
8 exactly where they were produced.

9           Q     Who was that -- or what's that person's name?

10           MS. BESL: I'm just going to insert an  
11 objection. Outside the scope of direct.

12 BY MS. PFEIFFER:

13           Q     Go ahead. You can answer.

14           A     Joe Senger.

15           Q     So who replaced Mr. Senger?

16           A     No one.

17           Q     No one replaced him?

18           A     Correct.

19           Q     So now when hats or shirts are sold, who does  
20 your vendor contact?

21           A     They contact myself or someone who works for  
22 me.

23           Q     But you have no knowledge of where these hats  
24 or shirts originated from?

25           A     I do not.



1 Q Where is your vendor located?

2 A St. Louis, Missouri.

3 Q You may have just answered this, but who  
4 handles orders that come through the Del Taco Web site  
5 for hats or shirts bearing the Naugles mark?

6 A Our vendor partner.

7 Q Directly?

8 A Yes.

9 Q What's the name of your vendor?

10 A T.O.P. Marketing USA.

11 Q Do you know if T.O.P. Marketing USA keeps a  
12 stock on hand or if they're made and shipped as  
13 ordered?

14 MS. BESL: Again, I'm just going to insert an  
15 objection that this is outside the scope of direct.

16 THE WITNESS: I believe they keep a stock on  
17 hand.

18 BY MS. PFEIFFER:

19 Q Do you have any knowledge of how often they  
20 restock or need to restock?

21 A I do not.

22 Q Do you know why Del Taco made the decision in  
23 March of 2011 to start selling clothing bearing the  
24 word "Naugles"?

25 A We saw a business opportunity.

1           Q     Could you elaborate a little, please?

2           A     We are always looking for ways to promote the  
3 Del Taco brand and knew -- I have personal knowledge  
4 that Naugles was a part of Del Taco through the  
5 combining of the two companies. I remember when my  
6 Naugles, or the Naugles in my area, converted. I know  
7 there's a -- you know, there's a loyal following out  
8 there that we could take advantage of.

9           Q     Okay. Was that your decision to -- your idea  
10 to begin selling clothing bearing the Naugles mark?

11          A     Yes.

12          Q     Do you remember when that decision was made?

13          A     Not exactly.

14          Q     Could you estimate?

15          A     I can't say for sure.

16          Q     Do you think it was roughly 2011?

17          A     Yes.

18          Q     Turning back to your affidavit previously  
19 marked as Exhibit T, please look again at paragraph 2  
20 on the first page. Again, that last sentence reads "I  
21 am informed and believe that since 1995 Del Taco has  
22 used the Naugles mark in advertising and on clothing";  
23 correct?

24          A     Yes.

25          Q     Based on your testimony a few minutes ago and

1           this trademark registration of Del Taco's for clothing  
2           that we marked as Exhibit U, isn't it true that  
3           Del Taco only began selling clothing bearing the  
4           Naugles mark as recently as September 15th, 2011?

5           A       As far as I know.

6           Q       So this last sentence of paragraph 2 in your  
7           affidavit which indicates that Del Taco has used the  
8           Naugles mark on clothing since 1995 is not accurate;  
9           correct?

10          A       I guess if you cut it up that way.

11          Q       I'm sorry?

12          A       If you parse the statement that way, yes.

13          Q       Are you reading it differently than I am, or  
14          interpreting it differently?

15          A       I guess I am.

16          Q       How do you interpret that?  It's your  
17          affidavit, so what does that mean?

18          A       I guess it means that it's a combination of  
19          advertising and on clothing.  So if you're saying on  
20          clothing, then I guess we should have called out a  
21          different date for the clothing.

22          Q       Okay.  So as you sit here today, to kind of  
23          clarify that statement in your affidavit, your  
24          testimony is that Del Taco only began selling clothing  
25          bearing the Naugles mark as recently as September 15th,

1 2011; correct?

2 A Correct.

3 Q This may seem kind of like a basic question,  
4 but is Del Taco the entity that sells these clothing  
5 items bearing the Naugles mark as seen in Exhibit 29?

6 A What do you mean "the entity"?

7 Q Who sells the clothes seen -- and hats seen in  
8 Exhibit 29?

9 A The Web site is DelTacoWebStore.com, which is  
10 our -- which is an affiliate of Del Taco.

11 Q So Del Taco is responsible for selling these?

12 A Yes.

13 Q Naugles is not the name of the entity selling  
14 these clothing items; correct?

15 A Correct.

16 Q So it's accurate to say that Del Taco is the  
17 source of these clothing items bearing the word  
18 "Naugles," not a company or source named "Naugles";  
19 correct?

20 MS. BESL: Objection to the extent it calls  
21 for a legal conclusion.

22 Go ahead.

23 BY MS. PFEIFFER:

24 Q You can answer.

25 A As far as I know, correct.

1           Q     You testified that clothing and the hat with  
2     the word "Naugles" on it is being sold on Del Taco's  
3     Web site; correct?

4           A     DelTacoWebStore.com.

5           Q     DelTacoWebStore.com. Is that correct?

6           A     Yes.

7           Q     Is that linked to the Del Taco Web site? Can  
8     I get from DelTacoWebStore.com to DelTaco.com?

9           A     Yes.

10          Q     Are those two Web sites not run by the same  
11     entity or person?

12          A     They are not.

13          Q     Who oversees DelTaco.com?

14                MS. BESL: Objection. Outside the scope of  
15     direct.

16                THE WITNESS: Del Taco does.

17     BY MS. PFEIFFER:

18          Q     Who at Del Taco? Is it your department?

19          A     My department, yes.

20          Q     Do you know who in your department is your --

21          A     Yes. My brand manager, Tammy Herstoff.

22          Q     Okay. And who oversees DelTacoWebStore.com?

23          A     T.O.P. Marketing USA.

24          Q     I am going to hand you what we are going to  
25     mark as Exhibit V.

1 (Whereupon, Petitioner's Exhibit V was  
2 marked for identification.)

3 BY MS. PFEIFFER:

4 Q Could you look at this page, please, and let  
5 me know if you recognize this page.

6 A I recognize it.

7 Q What is it?

8 A It looks like a screen shot of the order page  
9 for a Naugles T-shirt from DelTacoWebStore.com.

10 Q Is this an accurate representation of what  
11 DelTacoWebStore.com looks like, if I go to look up this  
12 shirt?

13 A I believe so.

14 Q Please look in the center of the page.  
15 There's the word "description." Could you read what's  
16 printed under it, please?

17 A "Now you can own a classic. 100 percent  
18 cotton, 5.3 ounce preshrunk T-shirt, double  
19 needle-stitched neckline, bottom hem and sleeve,  
20 screen-printed vintage Naugles logo on chest."

21 Q This page refers to the, quote, "vintage  
22 Naugles logo" seen on the front; correct?

23 A Yes.

24 Q Would you agree that the term "vintage" refers  
25 to something old or out of date?

1           A     Sure.

2           Q     How old does something have to be to be  
3 considered vintage?

4           MS. BESL: I'm just going to object on  
5 relevance.

6           THE WITNESS: These days, who knows; right?  
7 It could be ten years.

8 BY MS. PFEIFFER:

9           Q     Do you know who drafted this verbiage here?

10          MS. BESL: Objection. Outside the scope of  
11 direct.

12          THE WITNESS: I can't say for sure.

13 BY MS. PFEIFFER:

14          Q     Did you have anything to do with it?

15          A     I may have approved it.

16          Q     So you don't know who chose the term  
17 "vintage"?

18          MS. BESL: Objection. Calls for speculation.

19          THE WITNESS: I don't know for sure.

20 BY MS. PFEIFFER:

21          Q     Do you know who chose the term "classic"?

22          A     Don't know for sure.

23          Q     Do you know if it was somebody in the  
24 marketing department?

25          MS. BESL: Who -- oh. I'm sorry. I couldn't

1 find the "classic" word. I saw it.

2 THE WITNESS: Probably.

3 BY MS. PFEIFFER:

4 Q It's the marketing department who approves  
5 this verbiage in the description? Is that what you  
6 said?

7 A Yes.

8 Q Why doesn't Del Taco consider the shirt  
9 current?

10 MS. BESL: Objection. Calls for speculation,  
11 I suppose.

12 THE WITNESS: Because it's a representation of  
13 Naugles from the past.

14 BY MS. PFEIFFER:

15 Q Is this T-shirt being sold in Exhibit V the  
16 same T-shirt as seen in Exhibit 29 that was attached to  
17 your affidavit? Is that the same T-shirt?

18 A I believe so.

19 Q Do you know how many units of these classic  
20 shirts have been sold since 2011?

21 A I do not.

22 Q Who would know?

23 A T.O.P. Marketing USA.

24 Q And they're located where?

25 A St. Louis, Missouri.



1 Q And what's the name of your contact there?

2 A Jon Hodgins, I believe.

3 Q Back on Exhibit U for a minute, if you could,  
4 please, this one (indicating). Please look at the ID  
5 of goods listed. If you know, why does Del Taco  
6 differentiate between shirts and T-shirts?

7 MS. BESL: Objection to the extent it calls  
8 for attorney-client privilege.

9 THE WITNESS: What page am I looking at?

10 BY MS. PFEIFFER:

11 Q Page 3 next to "international class 25." It  
12 says "4," colon, "clothing," comma, "namely shirts,  
13 T-shirts, hats, and jackets" in class 25. Do you see  
14 that?

15 A Yes.

16 Q Do you know why shirts and T-shirts are both  
17 listed there?

18 A I have no idea.

19 Q So to your knowledge, does DelTacoWebStore.com  
20 sell any other shirts bearing the word "Naugles" other  
21 than the ones we've looked at already?

22 MS. BESL: Objection to the extent it calls  
23 for attorney-client privilege.

24 THE WITNESS: We do not.

25

1 BY MS. PFEIFFER:

2 Q You don't sell -- that's the one and only  
3 shirt?

4 A Currently, yes.

5 Q And you have no idea why shirts and T-shirts  
6 would both be listed in this registration? Is that  
7 your testimony?

8 A Correct.

9 Q So if I were to ask you -- if I wanted to know  
10 what shirts Del Taco sells with the Naugles mark that  
11 are different than this T-shirt in Exhibit U, you have  
12 no knowledge of that; is that correct?

13 A Correct.

14 Q I'm going to hand you a document that we are  
15 going to mark as Exhibit W.

16 (Whereupon, Petitioner's Exhibit W was  
17 marked for identification.)

18 BY MS. PFEIFFER:

19 Q Could you look at this page, please. Have you  
20 seen this before?

21 A Yes.

22 Q What is it?

23 A Screen shot of DelTacoWebStore.com Naugles hat  
24 page.

25 Q Is this an accurate representation of what I

1 would see if I went to DelTacoWebStore.com to order one  
2 of these hats?

3 A Yes, I believe so.

4 Q Okay. Halfway down where it says  
5 "description," could you read the verbiage underneath,  
6 please, for me.

7 A "Own a classic. Garment washed, 100 percent  
8 cotton twill, six-panel unstructured hugger shape,  
9 screen-printed vintage Naugles logo on crown,  
10 adjustable to fit most head sizes."

11 Q It says "own a classic," exclamation point.  
12 What does Del Taco mean by "classic"?

13 MS. BESL: Objection. Irrelevant.

14 You can go ahead.

15 THE WITNESS: Something from the past.

16 BY MS. PFEIFFER:

17 Q Okay. Is it meant to be nostalgic?

18 A Yes.

19 Q So Del Taco is associating the Naugles logo  
20 with the past; correct?

21 MS. BESL: Objection. I think that  
22 mischaracterizes the testimony.

23 Go ahead.

24 BY MS. PFEIFFER:

25 Q Go ahead and clear it up if I'm not stating

1           correctly what you mean by that.

2           A       Something from Del Taco's past.

3           Q       Is this hat being offered for sale, shown here  
4           in Exhibit W, the same hat as seen in Exhibit 29, which  
5           was attached to your affidavit?

6           A       Yes.

7           Q       And is this hat also produced by your  
8           third-party vendor? I'm sorry. What was it called?

9           A       Yes. T.O.P. Marketing USA.

10          Q       How many units of these classic hats have you  
11         sold since 2011?

12         A       I do not know.

13         Q       Who would know?

14         A       T.O.P. Marketing USA.

15         Q       The same contact person that you indicated  
16         before would have those sales figures?

17         A       Yes.

18         Q       Let's turn back again one more time to  
19         Exhibit U, Del Taco's trademark registration for  
20         clothing. The ID indicates, again, open quote,  
21         "clothing," comma, "namely shirts, T-shirts, hats, and  
22         jackets" in class 25; correct?

23         A       Yes.

24         Q       Does Del Taco, in fact, actually sell any  
25         jackets bearing the Naugles mark?

1           A     Not currently.

2           Q     Do you have any knowledge that they ever sold  
3 a jacket bearing the Naugles mark?

4           A     I do not.

5           Q     Do you have any knowledge that any plans are  
6 in the works to sell jackets in the near future or at  
7 all bearing the Naugles mark?

8           A     Not exactly.

9           Q     What do you mean? What do you mean "not  
10 exactly"? Maybe?

11          A     Maybe. Always -- we're always looking at --

12          Q     But nothing -- I interrupted you. I'm sorry.

13          A     We're always looking at opportunities and  
14 new -- and we are always looking at the opportunity to  
15 expand our line of offerings.

16          Q     But nothing concrete at this moment?

17          A     Nothing concrete at this moment.

18          Q     So the identification of goods listed in this  
19 trademark registration is incorrect; correct? Is that  
20 accurate?

21          A     I have no idea if it's correct or incorrect.

22          Q     Does Del Taco sell jackets bearing the Naugles  
23 mark?

24          A     We do not.

25          Q     So that's in contradiction to what's stated

1           here in this registration; correct?

2           A       I do not know.

3           Q       Okay.

4                   MS. BESL:   Would now be a good time for a  
5 short break?

6                   MS. PFEIFFER:   Sure.   Sure.

7                   (Recess.)

8                   MS. PFEIFFER:   Back on the record.

9 BY MS. PFEIFFER:

10           Q       So just to be clear, the T-shirt we see in  
11 Exhibit V and the hat shown in Exhibit W are the only  
12 two items of clothing that Del Taco is currently  
13 selling bearing the Naugles trademark; is that correct?

14           A       That's correct.

15           Q       And since 2011 the T-shirt seen in Exhibit V  
16 and the hat seen in Exhibit W are the only two items of  
17 clothing that Del Taco has ever sold bearing the  
18 Naugles trademark; correct?

19           A       That's correct.

20                   MS. BESL:   Objection to the extent it goes  
21 outside the scope of his personal knowledge.

22                   MS. PFEIFFER:   Okay.

23                   THE WITNESS:   You said since 2011, right, in  
24 your question?

25

1 BY MS. PFEIFFER:

2 Q Correct. Correct me if I'm wrong, but that's  
3 when you testified you began selling clothing bearing  
4 the Naugles mark.

5 MS. BESL: Oh. I'm sorry. I thought you said  
6 "ever."

7

8 EXAMINATION

9 BY MS. AMEZCUA-MOLL:

10 Q Mr. Chillingworth, when did you first become  
11 aware of this action that Mr. Ziebarth had filed?

12 A I don't remember, to be honest.

13 Q To the best of your recollection, has it been  
14 at least a year that you've been aware of this?

15 A Yes.

16 Q To the best of your recollection, has it been  
17 at least two years that you've been aware of this?

18 A Possibly.

19 Q To the best of your recollection, has it been  
20 at least two and a half to three years?

21 A Could be. I don't remember exactly when.

22 Q Earlier you testified that it was your idea to  
23 sell the hats and T-shirts; correct?

24 A Yes.

25 Q Was it only your idea?

1           A     I can't say for sure. We have a very  
2           collaborative work environment in the office. But I  
3           believe it was my idea.

4           Q     Without divulging any attorney-client  
5           privilege, to the best of your recollection, was that  
6           an idea that you ran by counsel?

7                     MS. BESL: I'll just object to the extent it  
8           calls for attorney-client privilege.

9                     THE WITNESS: I don't believe we did.

10          BY MS. AMEZCUA-MOLL:

11          Q     I'd like to go back to Exhibit T, specifically  
12          your declaration, paragraph 2. The first line states  
13          "I am informed and believe that Naugles brand has been  
14          owned and used by Del Taco and its predecessors since  
15          1988 in connection with Del Taco's restaurant  
16          services." That's a very broad statement. Can you  
17          tell me what exactly was intended by that statement?

18          A     I believe it's -- what we're saying -- what  
19          I'm saying here is that since the merger of the two  
20          companies, Del Taco has used and promoted the Naugles  
21          brand since 1988.

22          Q     Is it your understanding or is it your  
23          testimony that it's been continuous since 1988?

24          A     In some way, shape, or form.

25          Q     You've only been working with Del Taco since



1 February of 2009; correct?

2 A That is correct.

3 Q So as you sit here today, the only personal  
4 knowledge you would have on any use of the Naugles  
5 branding would pertain to February 2009 forward;  
6 correct?

7 A That is correct.

8 Q When you first began working in February 2009,  
9 can you please tell me in what way, shape, or form  
10 Naugles had been used by Del Taco?

11 A Can you repeat the question?

12 MS. AMEZCUA-MOLL: Could you kindly read it  
13 back?

14 (Whereupon, the record was read by the  
15 court reporter as follows:

16 "Q When you first began working in  
17 February 2009, can you please tell me in  
18 what way, shape, or form Naugles had been  
19 used by Del Taco?")

20 THE WITNESS: I remember advertising that had  
21 been used, because I remember seeing it myself, that  
22 the two brands had merged and that your Naugles  
23 favorites were now available at Del Taco and that the  
24 menus were combined, so Naugles items were now being  
25 sold at Del Taco restaurants.

1 BY MS. AMEZCUA-MOLL:

2 Q And do you recall what specifically was being  
3 used?

4 A Specifically products such as MACHO burritos  
5 and the MACHO line of products and MACHO nomenclature,  
6 as an example.

7 Q I apologize. What was the last thing you  
8 said?

9 A "MACHO nomenclature."

10 Q I apologize. I've never heard it. I'm  
11 assuming that must be a marketing term. Not my world.

12 Okay. So in 2009 the "MACHO" was used.  
13 Outside of that, what else would you say was being done  
14 in 2009, if anything?

15 A Our Web site. We had consistently talked  
16 about the brand's history, the combination of the two  
17 brands, and that Naugles is a part of Del Taco.

18 Q Did you author any of that text on the Web  
19 site regarding Naugles?

20 A I may have made edits.

21 Q To the best of your recollection, when was the  
22 last time you made any edits, if at all?

23 A We updated in March of last year. I don't  
24 know for sure if we edited the Naugles section.

25 Q To the best of your recollection, what does

1 the Naugles section state?

2 A Exactly what I said, that Naugles and Del Taco  
3 came together in the late '80s, and Naugles is a part  
4 of Del Taco.

5 Q To your knowledge, if you know, when was the  
6 last time a Naugles restaurant existed through the  
7 Del Taco chain?

8 A I do not know.

9 Q Since February of 2009, has there been any  
10 Naugles restaurant use through the Del Taco chain?

11 MS. BESL: I'm sorry. Can you repeat the  
12 question?

13 MS. AMEZCUA-MOLL: Could you read it back?  
14 (Whereupon, the record was read by the  
15 court reporter as follows:

16 "Q Since February of 2009, has  
17 there been any Naugles restaurant use  
18 through the Del Taco chain?"

19 MS. BESL: I guess objection to the extent it  
20 calls for a legal conclusion.

21 You can answer if you can.

22 THE WITNESS: What do you mean was there -- is  
23 there a Naugles restaurant?

24 BY MS. AMEZCUA-MOLL:

25 Q Since 2009, February of 2009, since you first

1 began working for Del Taco.

2 MS. BESL: And again, objection to the extent  
3 it calls for a legal conclusion.

4 THE WITNESS: We don't have a Naugles open, if  
5 that's what you mean.

6 BY MS. AMEZCUA-MOLL:

7 Q Yes. When you state, "I am informed and  
8 believe that Naugles brand has been owned and used by  
9 Del Taco and its predecessor since 1988 in connection  
10 with Del Taco's restaurant services," who informed you?

11 A Working with my legal counsel.

12 Q Outside of legal counsel, has anybody else  
13 informed you of that?

14 A We, again, have a collaborative office. We  
15 have folks that used to work for Naugles that are in  
16 the company. So those discussions with those folks  
17 through the course of business.

18 Q If you can, please exhaust your memory as best  
19 you can. Tell me who used to work for Naugles and  
20 informed you of the statement that you've indicated as  
21 line 1 to paragraph 2 of your declaration.

22 MS. BESL: Object to the form of the question;  
23 and objection; speculation.

24 THE WITNESS: I don't know that there was one  
25 person that informed me of this. I was answering,

1 really, more in terms of conversations around Naugles  
2 and Del Taco coming together and the history of the  
3 brands and the combination of the two brands.

4 BY MS. AMEZCUA-MOLL:

5 Q And what do you recall you were told  
6 specifically, other than what you've been told by your  
7 counsel?

8 A I don't know what you're asking.

9 Q The statement reads "I am informed and believe  
10 that the Naugles brand has been owned and used by  
11 Del Taco and its predecessors since 1988." We have it  
12 clear on the record that you've only been with Del Taco  
13 since February of 2009, so there's a gap of time of  
14 1988 to February of 2009. I'm asking, who, other than  
15 your counsel, has informed you that this statement is  
16 true? Because you're stating you believe it.

17 A Uh-huh.

18 Q And so my question to you is: Who provided  
19 you the information, other than counsel, that Naugles  
20 brand has been owned and used by Del Taco and its  
21 predecessors since 1988 in connection with Del Taco's  
22 restaurant services?

23 A Yeah. It's a statement that I came to on my  
24 own after conversation with folks around which products  
25 were Naugles products that we continue to sell on the

1 Del Taco menu today.

2 Q Other than counsel, can you name any names of  
3 parties that -- a party or parties that have informed  
4 you of this information?

5 A I can't say for sure.

6 Q So then is it more accurate that this  
7 statement should read "I believe that the Naugles brand  
8 has been owned and used by Del Taco"?

9 MS. BESL: Objection. I think that  
10 mischaracterizes his testimony.

11 THE WITNESS: No. I'm just saying I don't  
12 know exactly the name of one specific person. I know  
13 through conversations with fellow employees as well as  
14 through -- with my legal counsel that I am informed and  
15 believe.

16 BY MS. AMEZCUA-MOLL:

17 Q Can you name at least one fellow employee who  
18 you had conversations with?

19 MS. BESL: Objection. I think that's been  
20 asked and answered.

21 THE WITNESS: I don't remember exactly when,  
22 specific conversation that one time.

23 BY MS. AMEZCUA-MOLL:

24 Q I understand this may get a little frustrating  
25 for you, and I don't mean to press obnoxiously, but I

1 am entitled to get your best testimony where the  
2 sources were derived and to test what you've put forth  
3 today. So again, not asking what you've been told by  
4 counsel; but if you've formed this based off of  
5 conversations with employees, it seems to me that you  
6 would have in your mind at least one conversation that  
7 you had that would have led you to this. And if you  
8 want to tell me that you don't have any recollection,  
9 understood; but I'm trying to test this as clearly as I  
10 can.

11 A Yeah.

12 MS. BESL: Objection. Argumentative; asked  
13 and answered; and I'll leave it there.

14 THE WITNESS: I speak to hundreds of operators  
15 on a yearly basis and have conversations in  
16 restaurants, through presentations I give, through  
17 classes I teach. And I can't say exactly, you know,  
18 one person at one time in one place that I could point  
19 to or give you. We probably have many employees -- we  
20 have many tenured employees who worked for Naugles, and  
21 I can't say exactly a specific person or a specific  
22 time.

23 BY MS. AMEZCUA-MOLL:

24 Q The second sentence in that photograph states  
25 "I am informed and believe that while Del Taco stopped

1 using the Naugles trademark as the actual name of a  
2 restaurant on October 25th, 1995, it has never stopped  
3 using the mark in connection with its restaurant  
4 services." What did you mean by that statement?

5 A That even though we closed or transitioned the  
6 last Naugles freestanding restaurant, we continue to  
7 promote the brand through things such as the  
8 advertising we talked about as well as our online  
9 presence with Naugles.

10 Q With respect to online presence --

11 A I'm sorry, as well as the menu items I spoke  
12 to earlier.

13 Q The MACHO items?

14 A Yeah.

15 Q Other than the MACHO items, is there anything  
16 else that you believe Del Taco is using the Naugles  
17 brand in since October 25th of 1995?

18 A I'd have to check, but we have some off-menu  
19 items as well, such as the bun taco, and there might be  
20 one or two others.

21 Q Earlier you asked questions about the third  
22 and final sentence in that paragraph, which reads "I am  
23 informed and believe that since 1995 Del Taco has used  
24 the Naugles mark in advertising and on clothing." I  
25 think it was parsed out that it's not accurate as to



1 clothing. The date would have been September 15th,  
2 2011, with respect to clothing; correct?

3 MS. BESL: I'm going to object. That's a  
4 mischaracterization of the testimony.

5 THE WITNESS: We've been selling clothing  
6 since 2011.

7 BY MS. AMEZCUA-MOLL:

8 Q Okay. What do you believe the Naugles mark to  
9 actually be?

10 MS. BESL: Objection to the extent it calls  
11 for a legal conclusion.

12 THE WITNESS: The Naugles mark, I believe,  
13 is -- when you think about a brand, it's so many  
14 things. It's not only a logo, but it's products, and  
15 it's a feeling, a passion, you know, a history, and  
16 it's many things.

17 BY MS. AMEZCUA-MOLL:

18 Q It's a logo; it's feeling; it's passion --

19 A Products.

20 Q -- products? Anything else in your mind that  
21 you believe the Naugles mark to be?

22 MS. BESL: Objection. Again, calls for a  
23 legal conclusion, and I think this is well outside the  
24 scope of his direct testimony.

25 MS. AMEZCUA-MOLL: I'm taking his own

1 statements. He's making statements about the Naugles  
2 mark, so it's -- I'm trying to get foundation. What is  
3 the Naugles mark to him?

4 MS. BESL: I understand that, but this is a  
5 trademark proceeding where there are specific  
6 definitions of trademarks; and to the extent he's being  
7 asked to make legal conclusions --

8 MS. AMEZCUA-MOLL: Those objections stand.

9 MS. BESL: Okay.

10 MS. AMEZCUA-MOLL: Those objections stand, and  
11 they're fine, but I don't believe we can say it's  
12 outside when that's the crux of his declaration.

13 MS. BESL: You can answer.

14 THE WITNESS: Yeah. It's a marketing guy.  
15 It's all of those things that I said earlier. It's  
16 advertising. It's --

17 BY MS. AMEZCUA-MOLL:

18 Q To the best of your knowledge, has the Naugles  
19 logo been used with respect to Del Taco's marketing  
20 since February 2009 to the present?

21 MS. BESL: Objection. I just want to make  
22 sure. Are you differentiating between the logo itself  
23 and the word "Naugles"? I just want to make sure I'm  
24 clear.

25 MS. AMEZCUA-MOLL: The logo.

1 MS. BESL: So you're just talking about the  
2 old logo that is used in pictures?

3 MS. AMEZCUA-MOLL: The logo, whatever he  
4 understands that to be. If there's more than one,  
5 we'll explore that in a moment.

6 MS. BESL: But I mean from a defined trademark  
7 perspective, there are two different types of  
8 trademarks. There's the word that underlies it, and  
9 then there's the logo. So if we're trying to push  
10 these together, I think we're splitting hairs here.

11 MS. AMEZCUA-MOLL: I'm asking solely about the  
12 logo.

13 MS. BESL: Okay. So if it's just the logo --  
14 I just wanted to make sure.

15 THE WITNESS: Can you repeat the question?  
16 (Whereupon, the record was read by the  
17 court reporter as follows:

18 "Q To the best of your knowledge,  
19 has the Naugles logo been used with  
20 respect to Del Taco's marketing since  
21 February 2009 to the present?")

22 THE WITNESS: In some way, shape, or form it  
23 has been on our Web site, the logo, on our Web site.

24 BY MS. AMEZCUA-MOLL:

25 Q How do you understand it to have been used on

1 the Web site?

2 A The history section that we discussed earlier.

3 Q So to the best of your knowledge, it's just  
4 been the history rather than present; correct?

5 MS. BESL: Objection. I think that  
6 mischaracterizes his testimony.

7 BY MS. AMEZCUA-MOLL:

8 Q You can still answer.

9 A What's your question?

10 MS. AMEZCUA-MOLL: Would you read it back,  
11 please?

12 (Whereupon, the record was read by the  
13 court reporter as follows:

14 "Q So to the best of your  
15 knowledge, it's just been the history  
16 rather than present; correct?")

17 THE WITNESS: The Naugles logo has been used  
18 on our history section of our Web site consistently,  
19 and we've sold products in the restaurants.

20 BY MS. AMEZCUA-MOLL:

21 Q Okay. My question, though, is: Is it  
22 accurate that it's on the Web site -- and that's the  
23 piece I'm asking you about right now -- in reference to  
24 the history and not the present?

25 MS. BESL: Objection. Mischaracterization of

1 the testimony.

2 THE WITNESS: We've used it consistently, so  
3 I'm not sure what you're asking.

4 BY MS. AMEZCUA-MOLL:

5 Q Sure. The logo, you indicated, is used in the  
6 history section of the Web site.

7 A Correct, which goes from past to present.

8 Q How so?

9 A It is a linear recount of Del Taco history  
10 that goes '60s, '70s, '80s, '90s, to today.

11 Q Do you author any of that text?

12 A I think I said earlier I may have authored  
13 some, but edited recently.

14 Q In March?

15 A Yes.

16 MS. AMEZCUA-MOLL: Do you want to jump in with  
17 some questions?

18 MS. PFEIFFER: Yes.

19 MS. AMEZCUA-MOLL: Go ahead.

20

21 CONTINUED EXAMINATION

22 BY MS. PFEIFFER:

23 Q I'm going to come back to some of this Web  
24 site stuff, but I want to go back talking about the  
25 clothing so we can put that to bed. I want to talk a

1 little bit about control of clothing bearing the  
2 Naugles mark. Is it -- to your knowledge, is it  
3 accurate to state that Del Taco has exclusive control  
4 over all clothing items sold in the U.S. bearing the  
5 Naugles mark?

6 MS. BESL: Objection to the extent it calls  
7 for a legal conclusion and for speculation.

8 THE WITNESS: I believe so.

9 BY MS. PFEIFFER:

10 Q So you're not aware of anybody else selling  
11 clothing items bearing the Naugles mark other than  
12 Del Taco?

13 A I know that we had seen others try, and I  
14 believe we had sent cease and desist letters.

15 Q Okay. And was that on more than one occasion?

16 A I don't believe so. Just once.

17 Q You say "we," so it's been since you've worked  
18 there in 2009?

19 A Yes.

20 Q And you think it was just once?

21 A I believe so.

22 Q Do you recall when that was?

23 A I don't exactly.

24 Q Could you give me an estimate? 2009? 2010?

25 MS. BESL: Objection. Calls for speculation.

1 BY MS. PFEIFFER:

2 Q That you know. Don't speculate. Tell me what  
3 you know.

4 A I believe late 2011.

5 Q How did you become aware that somebody else  
6 was selling clothing?

7 MS. BESL: Objection, just in case it goes  
8 into any attorney-client privilege.

9 BY MS. PFEIFFER:

10 Q Right.

11 A I don't remember.

12 Q You don't know how it came to your attention  
13 that somebody else was selling clothing items?

14 A I don't remember for sure if I had stumbled  
15 upon it or somebody who worked for me had found it. I  
16 honestly don't remember.

17 Q Okay. What items were being sold? Or was it  
18 just one?

19 A I think it was a T-shirt.

20 Q A T-shirt that had the Naugles mark on it?

21 A Yes.

22 Q Do you know if it was the word "Naugles" or  
23 that old logo?

24 A I don't remember. It might have been just the  
25 old logo.

1 Q And it was just one T-shirt?

2 A I believe so.

3 Q Do you remember the party who was on the other  
4 side?

5 MS. BESL: I'm just going to insert an  
6 objection to this line of questioning as being outside  
7 the scope of direct.

8 You can answer.

9 THE WITNESS: I do not.

10 BY MS. PFEIFFER:

11 Q Other than your legal counsel, did anybody  
12 within Del Taco deal with this?

13 A Probably, but I don't know for sure.

14 Q You know that a cease and desist letter was  
15 sent?

16 A I believe so.

17 Q Did you ever see that letter?

18 A No. My lawyer would have.

19 Q So somebody informed you that a cease and  
20 desist letter was sent?

21 A Yes.

22 Q Do you know what came of this whole -- what  
23 the resolution was?

24 A I do not.

25 MS. BESL: Again, just in case it goes into



1 anything that was discussed with counsel, Jack or I --

2 THE WITNESS: I do not know.

3 BY MS. PFEIFFER:

4 Q Do you know if that T-shirt is still being  
5 sold?

6 A I do not know.

7 Q Was it sold online?

8 A I believe so.

9 Q Do you know if it was sold anywhere else?

10 A I do not know.

11 Q So one T-shirt bearing the Naugles mark --  
12 somebody found it online, and it wasn't coming from  
13 Del Taco? Is that correct? Is that your  
14 understanding?

15 MS. BESL: Again, I'm going to object. This  
16 is a trial deposition. This is not a discovery  
17 deposition, so this is far outside his testimony.

18 BY MS. PFEIFFER:

19 Q And to your knowledge, that's the only time  
20 you've been aware that somebody other than Del Taco was  
21 selling clothing items bearing the Naugles mark?

22 A Yes.

23 Q Do you know if that incident turned into an  
24 actual lawsuit?

25 A I do not know.

1           Q     Okay.  Let's look back at your affidavit,  
2           please.  Rose kind of got into this a little bit, but  
3           in paragraph 2 I just want to make sure that your  
4           testimony today is consistent with your sworn affidavit  
5           that Del Taco stopped using the Naugles trademark as  
6           the actual name of a restaurant on October 25th, 1995.  
7           Is that accurate?

8                     MS. BESL:  Objection.  It calls for a legal  
9           conclusion.

10                    You can answer.

11           BY MS. PFEIFFER:

12           Q     That's your testimony.  Is that still your  
13           testimony today?

14           A     Yes.

15           Q     Is it true that after, to your knowledge,  
16           October 25th, 1995, the restaurant Naugles, which, at  
17           that time, was owned and operated by Del Taco, were no  
18           longer in existence?

19           A     I believe so.

20           Q     Is it true that on October 25th, 1995, the  
21           last Naugles restaurant was closed?

22                     MS. BESL:  Just objection that it calls for a  
23           legal conclusion.

24                    THE WITNESS:  Again, I believe so.

25

1 BY MS. PFEIFFER:

2 Q Is it accurate to state that from October 25,  
3 1995, to the present day, Del Taco has not operated any  
4 restaurants in the United States named Naugles?

5 MS. BESL: Same objection.

6 THE WITNESS: Yes.

7 BY MS. PFEIFFER:

8 Q In your capacity as an executive at Del Taco,  
9 and specifically the current VP of marketing, can you  
10 tell me whether Del Taco has any concrete plans to  
11 resume operating any restaurants in the United States  
12 named "Naugles" in the future?

13 A I don't know for sure.

14 Q Well, in your capacity, are you aware of any  
15 plans?

16 A I am not right now.

17 MS. AMEZCUA-MOLL: As a follow-up to that  
18 question, since you've been there in February of 2009,  
19 have you ever had such conversations with anybody  
20 within your marketing team of doing that?

21 MS. BESL: Of opening a Naugles restaurant?

22 MS. AMEZCUA-MOLL: Yes. Correct.

23 MS. BESL: I'm just clarifying.

24 THE WITNESS: Not opening a restaurant, but  
25 better leveraging the Naugles brand on our menu, yes.

1           We have had discussions around that.

2           BY MS. PFEIFFER:

3           Q     We're going to go over some more stuff.  
4           Turning back to your affidavit, if you could, look at  
5           paragraph 3 on page 1, please. It states, quote,  
6           "Attached hereto and previously marked as Exhibit 11 is  
7           an example of advertising previously used by Del Taco  
8           in connection with its restaurant services prominently  
9           featuring the Naugles mark." Did I read that  
10          correctly?

11          A     Yes.

12          Q     I'm handing you a copy of Del Taco's  
13          Exhibit 11.

14                   (Whereupon, Petitioner's Exhibit 11 was  
15                   marked for identification.)

16          BY MS. PFEIFFER:

17          Q     If you could, just look over that page for me,  
18          please. Have you seen that page before?

19          A     Yes.

20          Q     Did you supply that page that was attached to  
21          your affidavit -- or referenced in your affidavit?

22          A     Not me personally.

23          Q     Do you know who supplied that page?

24          A     Not for sure. It may have been someone on my  
25          team.

1 Q You've seen that page before, though; correct?

2 A Yes.

3 Q Do you remember from where you saw that page?

4 A We got historical documents from the past in  
5 our office, as well as -- I've seen things like this  
6 online before.

7 Q Is this online now?

8 A It may be.

9 Q Do you remember when you first saw this  
10 document? Was it in connection with your affidavit in  
11 this proceeding, or was it prior?

12 A I don't know for sure.

13 Q You don't know if you saw this prior to  
14 preparing an affidavit for this proceeding?

15 A I could have.

16 Q Okay. What is this page?

17 A It is a menu talking about the products being  
18 sold that combined Naugles and Del Taco.

19 Q And your affidavit testifies that this  
20 advertising was, quote, "previously used by Del Taco."  
21 Can you tell me when it was used by Del Taco, a date or  
22 time frames?

23 MS. BESL: Objection that it calls for  
24 speculation, outside of his personal knowledge.

25 THE WITNESS: Yeah. I cannot.

1 BY MS. PFEIFFER:

2 Q Okay. Well, this was attached to your  
3 affidavit. You're testifying personally that this was  
4 used in connection with advertising. But as you sit  
5 here today, you don't have any knowledge of when this  
6 was used in connection with advertising?

7 A I don't know the exact date.

8 Q Do you even know that it was used in  
9 connection with advertising personally? Can you speak  
10 from knowledge, not what others in the company have  
11 told you?

12 A I saw advertising related to this approach.  
13 I've seen advertising related to this approach, yes.

14 Q What do you mean "this approach"?

15 A The "Viva Naugles/Viva Del Taco" campaign,  
16 which was designed to promote the two brands coming  
17 together. As I said, I remember seeing that on TV  
18 personally when the two brands combined.

19 Q You're just talking about that phrase down at  
20 the bottom here?

21 A As well as the promotion of the two menus  
22 coming together.

23 Q But this actual page -- can you tell me, from  
24 your own personal experience, when this piece of  
25 advertising was used, if at all, by Del Taco?

1           A     I can't tell you the date exactly when it was  
2           used, but I believe that it was used, since it was kept  
3           in our archive information.

4           Q     Is the fact that it's in your archives what  
5           you're basing your belief on?

6           A     Yes.

7           Q     Nothing else?

8                     MS. BESL:  Objection to the extent it  
9           misstates the testimony.

10          BY MS. PFEIFFER:

11          Q     Go ahead and clear it up if I'm misstating  
12          your testimony.

13          A     I believe we used this to promote the fact  
14          that the two brands had come together.

15          Q     Okay.  I understand you're familiar with the  
16          Viva Naugles, Viva Del Taco phrasing at the bottom.

17          A     Yeah.

18          Q     But this actual page of advertising -- I'm  
19          trying to get a foundation here of who can tell me and  
20          verify that this was used as advertising.

21                     MS. BESL:  Are you still excluding  
22          conversations he's had at Del Taco, or are you  
23          including them as well?

24                     MS. PFEIFFER:  I just want to know him  
25          personally, first of all.

1 MS. BESL: Okay.

2 BY MS. PFEIFFER:

3 Q Can you, as you sit here today, tell me that  
4 you know that this page was used in advertising?

5 A I believe, yes.

6 Q Okay. What do you base that belief on? The  
7 fact that it was in your archives or anything else?

8 A Yes. It's in our archives, and it's  
9 consistent with the campaign that was used to promote  
10 the two brands coming together.

11 Q Since you've worked there in 2009, have you  
12 seen this page, as a whole, used as advertising by Del  
13 Taco?

14 A We have not used this.

15 Q Okay. Thank you.

16

17 CONTINUED EXAMINATION

18 BY MS. AMEZCUA-MOLL:

19 Q I have a follow-up on the archives. You  
20 indicated this was found within the archives. What do  
21 you know of how the archives are maintained?

22 MS. BESL: Objection. Outside the scope of  
23 direct examination.

24 THE WITNESS: We have boxes in a closet as  
25 well as online resources and files.



1 BY MS. AMEZCUA-MOLL:

2 Q Were you the one to retrieve this document  
3 that was attached to your declaration, paragraph 3, as  
4 Exhibit 11?

5 MS. BESL: Objection. Asked and answered.

6 THE WITNESS: I can't say for sure.

7 BY MS. AMEZCUA-MOLL:

8 Q Okay. Do you know, whoever retrieved this --  
9 did they tell you what year it came from?

10 MS. BESL: Objection. I think that misstates  
11 the testimony as to who retrieved it.

12 THE WITNESS: No.

13 BY MS. AMEZCUA-MOLL:

14 Q Do you know whether or not the archives are  
15 maintained by years?

16 MS. BESL: Objection. Outside the scope of  
17 direct.

18 THE WITNESS: They are not.

19

20 CONTINUED EXAMINATION

21 BY MS. PFEIFFER:

22 Q Okay. So just to be clear, this Exhibit 11  
23 here is no longer used by Del Taco in connection with  
24 its restaurant services; correct?

25 A This exhibit, correct.

1           Q     And you haven't seen it used since you began  
2     working there in February of 2009; correct?

3           A     Correct.

4           Q     So your testimony in paragraph 3 of your  
5     affidavit is, quote, that this advertising is  
6     "prominently featuring the Naugles mark"; is that  
7     correct?

8           A     Yes.

9           Q     Is that still your testimony today, after  
10    looking at it? You'd use the term "prominently" --

11          A     Sure.

12          Q     -- and "featured"?

13          A     Sure.

14          Q     I want to understand your testimony as to why  
15    these particular words were chosen in relation to your  
16    view of how the Naugles mark is used in this piece of  
17    advertising.

18                MS. BESL:  Objection to the extent it calls  
19    for a legal conclusion.

20    BY MS. PFEIFFER:

21          Q     Just you.  I want -- because you swore to  
22    these words, not your attorney, so I want to know how  
23    you understand these words to be used in relation to  
24    this piece of advertising.  Don't tell me anything they  
25    told you.

1           A     I think I said it earlier. It is a piece that  
2 talks about these two brands coming together, and  
3 that's the importance of it.

4           Q     But to refer to it as prominently featuring,  
5 as if it were to stick out -- is that still your  
6 testimony today? You think that's the way the Naugles  
7 mark is used, in such a way that it's prominently  
8 featured?

9           A     In this case, yes.

10          Q     In Exhibit 11 the phrase "Viva Naugles" at the  
11 bottom of the page is one of only two pages where the  
12 word "Naugles" is found; correct? The second place I'm  
13 referring to is -- there's a very, very small font at  
14 the bottom.

15          A     It looks like it. Yes.

16          Q     I just want to make sure we're all coming from  
17 the same place.

18

19                               CONTINUED EXAMINATION

20          BY MS. AMEZCUA-MOLL:

21          Q     Referring to the bottom where Kelly just  
22 pointed out, it says "those items available at Del Taco  
23 and Naugles restaurants" -- you recognize that it's  
24 referencing Naugles restaurants?

25          A     Yes.

1           Q     And you earlier testified, and it also states  
2     in your declaration, that Naugles restaurants were no  
3     longer available after October 25th, 1995; correct?

4           A     Yes.

5           Q     Do you have any reason to believe by anything  
6     anybody's told you that this piece of paper would have  
7     been used after October 25th, 1995 in marketing or  
8     advertising?

9           MS. BESL:  Objection.  Calls for speculation.

10          THE WITNESS:  I don't know for sure.

11         BY MS. AMEZCUA-MOLL:

12          Q     Do you have any reason to believe this would  
13     have been used after that date?

14          MS. BESL:  Objection.  Calls for speculation.

15          THE WITNESS:  Sure.  I don't know how many of  
16     these they printed or used.  Our restaurants use things  
17     such as these even many years after we provide them to  
18     them.

19         BY MS. AMEZCUA-MOLL:

20          Q     To the best of your knowledge, has this been  
21     used from February 2009 moving forward?

22          MS. BESL:  Asked and answered.  Objection.

23          THE WITNESS:  It has not.

24

25     //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CONTINUED EXAMINATION

BY MS. PFEIFFER:

Q If you know, how was Exhibit 11 used as advertising specifically? Do you know, was it a handout to customers as flyers or digitally or on the Web site? As a consumer, how would that reach me?

A I don't know for sure.

Q Is that because you weren't around when it was used? Correct?

A Correct.

Q Okay. So as we were just discussing, at the very bottom of Exhibit 11 it states "these items available at Naugles and Del Taco restaurants." Did I read that correctly?

A Yes.

Q And this small statement at the bottom references Naugles restaurant; is that correct?

MS. BESL: Objection. Asked and answered.

THE WITNESS: Yes.

BY MS. PFEIFFER:

Q And as you already testified, all Naugles restaurants were closed down as of October 25th, 1995; correct?

MS. BESL: Objection. Asked and answered.

THE WITNESS: Sure.

1 BY MS. PFEIFFER:

2 Q So after reading that statement, would it be  
3 logical to infer that this piece of advertising was  
4 created prior to October 25th, 1995?

5 MS. BESL: Objection. Asked and answered, and  
6 calls for speculation.

7 THE WITNESS: I don't know when it was  
8 created.

9 BY MS. PFEIFFER:

10 Q Well, why would Del Taco create a piece of  
11 advertising which states that food items are available  
12 in a restaurant that no longer exists?

13 MR. TANG: Argumentative.

14 MS. BESL: Yeah, and speculation.

15 BY MS. PFEIFFER:

16 Q Why would Del Taco create a piece of  
17 advertising which states that food items are available  
18 in a restaurant that no longer exists?

19 A Because for Naugles fans, you would want them  
20 to know that they can still get their Naugles items at  
21 Del Taco, since the two brands have come together and  
22 will continue to be that way going forward.

23 Q This -- as you previously testified, it  
24 references Naugles restaurants; correct?

25 MS. BESL: Asked and answered. Objection.

1 THE WITNESS: Yes. Yes.

2 MS. AMEZCUA-MOLL: Do you have any reason to  
3 believe that this document was created after  
4 October 25th, 1995?

5 MS. BESL: Objection. Calls for speculation.

6 THE WITNESS: I can't say for sure.

7 MS. AMEZCUA-MOLL: Whether or not you have the  
8 belief?

9 THE WITNESS: It could have. During a  
10 transition period you always -- I can see a transition  
11 period being a longer period of time, so there could be  
12 a case where they would have used this to facilitate  
13 the two brands coming together.

14 BY MS. PFEIFFER:

15 Q But you don't know anything concrete?

16 A But I don't know for sure. Yeah.

17 Q Okay. Let's turn to page 2, paragraph 4 of  
18 your affidavit, please. You testify, quote, "I am  
19 informed and believe that Del Taco has also used the  
20 Naugles mark on the official Del Taco Web site  
21 advertising its restaurant services." Did I read that  
22 correctly?

23 A Yes.

24 Q How did you become informed of this alleged  
25 fact?

1           A     Again, for time periods prior to my working at  
2     Del Taco, I have seen old Web pages, as an example,  
3     where they had used the Naugles mark previously.

4           Q     Okay. Did anybody tell you this information?  
5     You said you were informed of this, so I'm just trying  
6     to find out, how did you become informed of it?

7           A     In some cases, working with legal counsel. I  
8     can't say for sure if there was any specific one person  
9     that informed me.

10          Q     Okay. So other than what legal counsel told  
11     you and old Web sites that you've seen -- that is what  
12     you're basing the information and belief on that you're  
13     testifying to in this affidavit; is that correct?

14          A     Yes. Yes.

15          Q     All right.

16                 MS. BESL: Do you want to take a quick break?

17                 MS. PFEIFFER: I don't have a watch, so yeah,  
18     that's fine.

19                 MS. BESL: Do you want to take a quick break?

20                 THE WITNESS: Sure. That would be great.

21                 (Recess.)

22     BY MS. PFEIFFER:

23           Q     Mr. Chillingworth, I am handing you a group of  
24     documents that has previously been submitted in this  
25     proceeding as Del Taco's Exhibits 16 through 28.



1 (A discussion was held off the record.)

2 MS. PFEIFFER: Okay. So we are going to mark  
3 as Petitioner's Exhibit X this document entitled  
4 "Respondent Del Taco, LLC,'s Notice of Reliance."

5 (Whereupon, Petitioner's Exhibit X was  
6 marked for identification.)

7 MS. PFEIFFER: And attached to this are  
8 Exhibits 16 through 28, which we will refer to as  
9 Del Taco's Exhibits 16 through 28, because they have  
10 been previously marked as such by Del Taco.

11 BY MS. PFEIFFER:

12 Q Looking first at the notice of reliance,  
13 Mr. Chillingworth, have you seen this before?

14 A The notice of reliance?

15 Q Correct.

16 A I may have.

17 Q If you saw it, was it because your counsel  
18 showed it to you? Was there any independent reason  
19 other than your counsel that you would have seen this  
20 document?

21 A No. It would have been with counsel.

22 Q Okay. You can go ahead and turn to the  
23 exhibits, please. Please do me a favor and look  
24 through these. For the sake of brevity of my upcoming  
25 questions, if you're able -- and you can speak with

1           your counsel -- I want to try to stipulate that the  
2           substance of all these exhibits constitute the same  
3           exact page, the only difference being that the Wayback  
4           Machine allegedly reflects that these pages were  
5           available online on different dates ranging between  
6           February of 2003 and October 2006. So if you want to  
7           take a minute --

8                       MR. TANG: Can you repeat that?

9                       MS. PFEIFFER: I'm trying to get to the fact  
10           that these exhibits are all the same page  
11           substantively. The only difference is that the Wayback  
12           Machine from which they appear to be pulled reflects  
13           that they were available online on various dates  
14           ranging between February of 2003 and October of 2006.  
15           So in other words, instead of asking questions about  
16           every single page --

17                      MR. TANG: That's fine.

18                      From '3 to '6; is that accurate?

19                      MS. PFEIFFER: Well, that they're all the same  
20           page, though.

21                      MR. TANG: Yeah. That's fine.

22                      MS. BESL: Yeah. I think they are. I don't  
23           know if the -- I think the content below the screen  
24           shot might have been different.

25                      MS. PFEIFFER: Just what you see here. Take

1 your time to look through them, but these are your  
2 exhibits.

3 MS. BESL: I know. I know. You are correct  
4 that we can stipulate as to the date being different  
5 and taken from the Wayback Machine, and it is, I think,  
6 from the exact same page. And I think -- generally I'm  
7 okay stipulating. I think the text is generally the  
8 same.

9 MS. PFEIFFER: I think it's exactly the same.

10 MR. TANG: Yeah. That's fine.

11 MS. PFEIFFER: I don't want to have to ask you  
12 questions --

13 MS. BESL: Yeah. That's fine.

14 MS. PFEIFFER: So can we stipulate to that?

15 MS. BESL: Yes.

16 BY MS. PFEIFFER:

17 Q So pick any page. Have you seen that page  
18 before?

19 A Yes. Exhibit 16.

20 Q Okay. Where have you seen that page?

21 A In preparation for the trial.

22 Q Anywhere else, other than originating from  
23 your counsel?

24 A No.

25 MS. BESL: Are you referring to this specific

1 screen shot or the Web page underneath?

2 MS. PFEIFFER: Yes, just the screen shot here.

3 BY MS. PFEIFFER:

4 Q I want to know if the only time you have ever  
5 seen this screen shot was because your counsel gave it  
6 to you. Is that correct?

7 A That's correct.

8 Q So pick one to work off of, since we've  
9 established that the substance is all the same, and  
10 we'll ask questions.

11 A Okay.

12 Q When you testified in paragraph 4 of your  
13 affidavit that Del Taco has used the Naugles mark on  
14 its official Del Taco Web site advertising its  
15 restaurants, is this page from the Del Taco Web site  
16 what you were referring to, or at least one of the  
17 documents that you were referring to?

18 A Yes, one of them.

19 Q Independent of this page, you had also  
20 mentioned the history section that's currently on the  
21 Del Taco Web site as a place where advertising exists;  
22 is that correct?

23 A Yes.

24 Q Other than this -- I'll characterize it as the  
25 old history page, or a snapshot, screen shot from the

1 old history page and the current -- anywhere else on  
2 the Web site, other than the clothing that we've looked  
3 at, can you think of where Del Taco utilizes the  
4 Naugles mark to advertise its restaurant services?

5 MS. BESL: Is this for all time or from  
6 February 2009 on?

7 BY MS. PFEIFFER:

8 Q First, all time that you know of.

9 MS. BESL: Objection to the extent it calls  
10 for any speculation.

11 THE WITNESS: Yeah. The mark, I don't believe  
12 so; but on our menu we've got the products that we are  
13 promoting that are Naugles items.

14 BY MS. PFEIFFER:

15 Q Does your menu say "Naugles" anywhere on it?

16 A I don't believe so, no.

17 Q So no menu items of Del Taco's right now refer  
18 to, quote, "Naugles"?

19 MS. BESL: On the Web site or in the stores?

20 MS. PFEIFFER: Anywhere, actually.

21 THE WITNESS: No.

22 BY MS. PFEIFFER:

23 Q No, they do not?

24 A They do not. But we are selling Naugles  
25 items, items that were originally part of the Naugles

1 brand and the Naugles menu, in our restaurants.

2 Q But your menu does not advertise them as  
3 Naugles items; correct? You're just -- you're telling  
4 me that they used to be available at Naugles  
5 restaurants; correct?

6 A Correct.

7 Q They're not advertised as Naugles products on  
8 your menu; correct?

9 A Correct. Currently not.

10 Q Have you seen them advertised on your menu as  
11 Naugles items since you began working there in February  
12 of 2009?

13 A I have not.

14 Q Are you personally aware of the time frame  
15 after 1995 up to 2009 when Del Taco used the Naugles  
16 trademark to advertise menu items on its menus?

17 MS. BESL: Objection to the extent it calls  
18 for speculation.

19 MS. AMEZCUA-MOLL: If you know.

20 BY MS. PFEIFFER:

21 Q If you know.

22 A I just know of examples that we gave where  
23 I -- again, I assume that we used flyers such as this  
24 to promote the fact that the two brands had come  
25 together. Had I seen -- I had seen advertising during

1           those years, or I believe it was during those years, on  
2           the two brands coming together.

3           Q     Okay. Did you personally help gather  
4           documents to be produced for this litigation?

5                     MS. BESL: Objection.

6           BY MS. PFEIFFER:

7           Q     Did you personally see --

8                     MS. PFEIFFER: I'm sorry. Go ahead. I was  
9           going to rephrase it.

10                    MS. BESL: That's okay. Go ahead.

11           BY MS. PFEIFFER:

12           Q     I want to know, since the inception of this  
13           proceeding, if you have personally been the one to  
14           gather documents and pass them to your counsel in  
15           relation to this proceeding.

16                    MS. BESL: Objection. Outside the scope of  
17           direct, and object to the extent it calls for any  
18           attorney-client privilege.

19                    THE WITNESS: It has been mainly me, yes.

20           BY MS. PFEIFFER:

21           Q     Okay.

22           A     I may have enlisted the help of folks on my  
23           team.

24           Q     Okay. But you were the contact with them in  
25           order to pass documents; is that correct?

1           A     Yes.

2           Q     Okay.  So --

3                   MS. AMEZCUA-MOLL:  Does that help refresh your  
4     memory as to when you first became aware of this  
5     proceeding?

6                   THE WITNESS:  No.

7     BY MS. PFEIFFER:

8           Q     If advertising -- let me rephrase that.  
9     Sorry.  Did you and/or in collaboration with your team  
10    give your counsel all documents that you had in your  
11    possession that they asked for that were responsive to  
12    their requests?

13                  MS. BESL:  Objection.  Outside the scope of  
14    direct, and to the extent it calls for any  
15    attorney-client privilege.

16                  THE WITNESS:  Yes, we would have passed on  
17    anything we had.

18    BY MS. PFEIFFER:

19           Q     Thank you.

20                  MS. BESL:  I just want to clarify.  Are you  
21    asking because he said he saw advertising previously?

22                  MS. PFEIFFER:  Yes.

23                  MS. BESL:  I'm wondering -- and I don't mean  
24    to overstep, but I'm just wondering if -- was that in  
25    your personal capacity?



1 THE WITNESS: I saw that advertising  
2 previously, before I worked for Del Taco.

3 MS. PFEIFFER: I see what you're getting at.  
4 Thank you.

5 MS. BESL: I was just wondering if that --

6 MS. PFEIFFER: Yes. Thank you for clarifying.

7 BY MS. PFEIFFER:

8 Q So I'm asking you questions -- I'm sorry. I  
9 haven't been clear to clarify you as a consumer of Del  
10 Taco in California and you as an executive of  
11 Del Taco.

12 A Uh-huh.

13 Q So other than what you've seen personally or  
14 advertising that you have seen personally, in your  
15 capacity as an executive at Del Taco -- in the duration  
16 of this proceeding, when you've been asked to produce  
17 certain documents in response to requests from your  
18 counsel, did you always do that?

19 A Yes.

20 Q Thank you. So if you had further advertising,  
21 you would have passed it to them; correct?

22 MS. BESL: Objection.

23 THE WITNESS: Yes.

24 MS. BESL: I was going to object. Outside the  
25 scope of direct, and to the extent it calls for

1 attorney-client privilege.

2 BY MS. PFEIFFER:

3 Q Sorry. I apologize if I'm over -- going over  
4 this again, but just to be clear, other than what we're  
5 looking at here, these exhibits, this Web shot, and the  
6 history section of Del Taco's Web site, which currently  
7 is live, are you aware of any other way Del Taco made  
8 use of the Naugles mark to advertise its restaurant  
9 services on its Web site between 1995 and now?

10 MS. BESL: I'll just object to the form of the  
11 question and just clarify. This is only Web site;  
12 correct?

13 MS. PFEIFFER: Correct.

14 MS. BESL: Okay.

15 THE WITNESS: I am not, other than the ones  
16 we've discussed already.

17 BY MS. PFEIFFER:

18 Q Okay. DelTaco.com -- is that the URL? Is  
19 that correct?

20 A Yes.

21 Q Has there ever been a different one, if you  
22 know?

23 A Yeah, I don't know.

24 Q You don't know?

25 A I assume it's been -- I assume it's the only

1 one.

2 Q Do you know when Del Taco's Web site was first  
3 launched?

4 MS. BESL: Just objection. Speculation or  
5 outside the scope of direct.

6 THE WITNESS: I do not know for sure.

7 BY MS. PFEIFFER:

8 Q You already told me the name of the person  
9 that handles your web -- your DelTaco.com Web site.  
10 What was the person again? I'm sorry.

11 A Tammy Herstoff.

12 Q Do you know how long Tammy's been with the  
13 company?

14 A Maybe three years, three and a half.

15 Q Okay. Do you know who held Tammy's position  
16 prior to Tammy herself?

17 MS. BESL: Objection. Outside the scope of  
18 direct.

19 THE WITNESS: Yeah. I believe it was a new  
20 position that we created.

21 BY MS. PFEIFFER:

22 Q Do you know who handled the -- well, do you  
23 know if the Web site is older than three years old?

24 A It is. Yes.

25 Q Do you know who handled it prior to Tammy?

1 MS. BESL: Objection. Outside the scope of  
2 direct.

3 THE WITNESS: It probably would have been me,  
4 technically.

5 BY MS. PFEIFFER:

6 Q So do you -- did the Web site exist before you  
7 came to Del Taco?

8 A Yes.

9 Q But before that, you do not know when it  
10 started; correct?

11 A I do not know.

12 MS. BESL: Same objection. Outside the scope  
13 of direct.

14 MS. PFEIFFER: I'm going to hand you a  
15 document we're going to mark as Petitioner's Exhibit Y.

16 (Whereupon, Petitioner's Exhibit Y was  
17 marked for identification.)

18 BY MS. PFEIFFER:

19 Q Go ahead and take a minute to look through  
20 that. Have you seen this document before?

21 A Yes.

22 Q What is this document?

23 A They are screen grabs of our current history  
24 tab on DelTaco.com.

25 Q If I were to go to the history section of

1           Deltaco.com today, is this an accurate representation  
2           of what I would find?

3           A       I believe so.

4           Q       Where in this history section is the Naugles  
5           mark used?

6           A       We promote the merger with Naugles on the  
7           '80s -- 1980s tab.

8           Q       So page 4 of this exhibit; is that correct?

9           A       Yeah, it looks like it.

10                  MS. BESL: And just to clarify for the record,  
11           on the Web site, I believe, the way it works is it's  
12           not an individual page. It's a scrolling sidebar that,  
13           as you click through each decade, it appears. So just  
14           for the record, I wanted to make that clarification.

15                  MS. PFEIFFER: Correct.

16           BY MS. PFEIFFER:

17           Q       So for the sake of this exhibit, though,  
18           page 4 of these seven pages is the only place where the  
19           Naugles mark is shown; is that correct?

20           A       I believe so, the 1980s section. Yes.

21           Q       Today what you see on page 4 -- does this  
22           represent everywhere on the Deltaco.com Web site where  
23           the Naugles mark can be found?

24           A       I believe so.

25           Q       Yes?

1           A     I believe so. There may be an inactive page  
2           or -- but yes, these represent the -- this represents  
3           the page where we highlight the fact that the two  
4           brands came together.

5           Q     "Inactive" meaning I couldn't get to it as a  
6           consumer right now?

7           A     Correct.

8           Q     It's not a live page?

9           A     Correct.

10          Q     But to your knowledge, this is the only live  
11          page on the Del Taco Web site where I can find the  
12          Naugles mark; is that correct?

13          A     Correct.

14          Q     Okay. I want to turn our discussion to the  
15          issue you refer to as, quote, the Naugles secret menu,  
16          which you reference in page 2, paragraphs 6 and 7 of  
17          your affidavit.

18                 In paragraph 6 you testify, "I have personal  
19          knowledge of and am informed and believe that since  
20          1988 Del Taco has consistently offered menu items that  
21          were originally sold in Naugles-named restaurants,  
22          opened by the prior owners, Naugles, Inc." Did I read  
23          your testimony accurately?

24          A     Yes.

25          Q     Is that still your testimony as you sit here

1 today?

2 A Yes.

3 Q So you state that you have personal knowledge,  
4 but you also state that you are informed and believe.  
5 Is there a portion of this that you have personal  
6 knowledge of and a portion of this of which you were  
7 informed and believe? Can you just kind of -- if you  
8 want to parse that out for me --

9 A I don't know that I can. It's all kind of  
10 consistent with what I said before. It's again --  
11 prior to me being employed by Del Taco, I was a  
12 customer of Del Taco and a customer of Naugles, so I  
13 was familiar with both menus of the brands, and I have  
14 personal knowledge of that.

15 And then since becoming employed by Del Taco,  
16 as we discussed earlier, I have had discussions with  
17 folks who were former Naugles employees who -- through  
18 the course of business we may have discussed Naugles  
19 items, the history of Naugles, et cetera.

20 MS. PFEIFFER: I'm treading here between  
21 trying not to quite get into the confidential stuff  
22 yet. That's why I'm -- I will get there in a minute.

23 MS. BESL: Oh, yeah. That's fine. That's  
24 fine.

25

1 BY MS. PFEIFFER:

2 Q To your knowledge, in this proceeding has  
3 Del Taco produced any evidence of the existence of  
4 Naugles menu items?

5 MS. BESL: Objection to the extent it calls  
6 for speculation and also attorney-client privileged  
7 information.

8 THE WITNESS: Repeat the question. Have we  
9 produced --

10 BY MS. PFEIFFER:

11 Q Yes. And again, I think we kind of talked  
12 about you being the point person of collecting  
13 documents to pass to your counsel in this case.

14 MS. BESL: I just want to clarify something.  
15 I think he testified he worked in advertising then.  
16 There were a lot of other documents produced outside of  
17 his scope; and I think to the extent you were asking  
18 about advertising -- I think he could speak to that,  
19 but I don't want him to go too far. There were over  
20 800 documents produced in this proceeding, so a lot of  
21 them didn't come just from advertising or marketing.

22 MS. PFEIFFER: Right.

23 BY MS. PFEIFFER:

24 Q A menu item -- does that fall within  
25 advertising or branding, in your opinion?



1           A     Yes.

2           Q     So go ahead.  And if you think I'm misstating  
3           anything you said before, just clear it up.  But I just  
4           want to establish here, you know, any documents, in  
5           your capacity as a Naugles executive, pertaining to,  
6           quote, "Naugles secret menu items which" -- that's your  
7           verbiage in your affidavit that you gave to your  
8           counsel in relation to this proceeding -- all those  
9           documents that they asked for; correct?

10          A     Yes.  I've given them everything that I've  
11          been asked to provide.

12          Q     Okay.  Thank you.  What are these secret menu  
13          items you're referring to?  What are they?

14          A     They are items that you could buy previously  
15          at a Naugles and that now you can buy at a Del Taco.

16          Q     Okay.  What are they?

17          A     As an example, the bun taco would be one.

18          Q     Anything else?

19          A     MACHO bacon and egg burrito, I believe.  And  
20          then others that guests come up and ask us for that we  
21          in some cases try to make or can make for them.

22          Q     Like a special order, almost?

23          A     Yes, exactly, if they request it.

24          Q     Okay.

25          A     So a cheese burrito or something to that

1 effect.

2 Q Del Taco doesn't specifically stock its  
3 kitchen in order to provide Naugles items, do they?

4 A Sure.

5 MS. BESL: Objection to the extent it calls  
6 for any speculation.

7 BY MS. PFEIFFER:

8 Q Well, you said they'd try to make it if they  
9 can, so I take that to mean with what you have.

10 A The two brands came together in the late '80s,  
11 and since then we've had the same menu, so we continue  
12 to sell those items.

13 Q You've had the same menu?

14 A The two menus came together at that time. So  
15 we've made menu changes since then, but for the most  
16 part the basic menu is still the same, being that  
17 Naugles and Del Taco both had Mexican and American  
18 favorites, and we still have Mexican and American  
19 favorites.

20 Q I'm trying to establish what you -- what your  
21 testimony considers Naugles secret menu items. So I  
22 understand what you're saying, that there was kind of a  
23 fusion of the menus.

24 A Yeah.

25 Q But we're talking about customers' perception

1 of Naugles items.

2 A Yeah.

3 Q So could you, please -- other than the bun  
4 taco and the MACHO bacon and egg burrito, are there  
5 other items that you're referring to that you consider  
6 part of the Naugles secret menu?

7 A I would say mainly those two items.

8 Q Okay. Is there any place online, flyers, in  
9 the restaurants itself, where Del Taco informs the  
10 customers that the bun taco or the MACHO bacon and egg  
11 burrito are old Naugles items?

12 A Not specifically.

13 Q Generally?

14 A Social media posts, possibly.

15 Q Made by Del Taco?

16 A Yes, but that --

17 MS. AMEZCUA-MOLL: Did you produce any of  
18 that, to the best of your recollection?

19 THE WITNESS: That would be speculation. We  
20 probably have done one or two posts in the last three  
21 or four years that might have said that, or something  
22 to the effect of, what old items should we bring back?

23 BY MS. PFEIFFER:

24 Q Like a poll?

25 A Yeah, exactly.

1           Q     But you can't concretely point to anywhere, a  
2 flyer or in your restaurant, that says "This is a  
3 Naugles item"; correct?

4           A     I cannot.

5           Q     In paragraph 6 of your affidavit are you  
6 referring to the menu shown in Exhibit 11?

7           A     No.

8           MS. BESL: Where are you pointing to?

9           MS. PFEIFFER: Well, he refers to a, quote,  
10 "Naugles secret menu." I'm just asking if he's  
11 referencing --

12 BY MS. PFEIFFER:

13          Q     No, you're not?

14          A     I'm just saying in general terms.

15          Q     Well, Naugles restaurants haven't existed  
16 since '95; correct?

17          A     Correct.

18          Q     What do you base your assumption on that  
19 people associate the bun taco with Naugles and not  
20 Del Taco?

21          MS. BESL: Objection to the extent it calls  
22 for a legal conclusion.

23          THE WITNESS: It was a Naugles menu item.

24 BY MS. PFEIFFER:

25          Q     I know you know that, but what are you basing

1           your assumption on that other people know that?

2           A     Things I read and hear online, things I hear  
3           from former employees, such as that.

4           Q     Anything that has originated from Del Taco?

5           A     I can't say for sure.

6           Q     You would be guessing if you said it came from  
7           Del Taco itself?

8           A     Yes.

9           Q     Since you've worked there in 2009, have you  
10          seen anything come from Del Taco that you could base  
11          that assumption on, that people assume that -- your  
12          assumption that people associate the bun taco with  
13          Naugles and not just Del Taco? Have you seen anything  
14          originate from Del Taco to base that on?

15          A     Just conversation.

16                MS. AMEZCUA-MOLL: And who were those  
17          conversations with?

18                THE WITNESS: Again, I can't say there was one  
19          conversation with one person. Just a number of  
20          internal meetings or discussions or feedback I hear  
21          from operators.

22                MS. AMEZCUA-MOLL: And that would be solely  
23          conversations from February of 2009 through the  
24          present; correct?

25                THE WITNESS: Correct.

1 BY MS. PFEIFFER:

2 Q So you're VP of marketing; correct?

3 A Yes.

4 Q So are you familiar with your average customer  
5 age?

6 MS. BESL: Objection. Outside the scope of  
7 direct.

8 THE WITNESS: I would have to guess or look it  
9 up, but yes.

10 BY MS. PFEIFFER:

11 Q Do you target a younger crowd, would you say?

12 A Not --

13 MS. BESL: Objection. Outside the scope of  
14 direct.

15 THE WITNESS: Not necessarily.

16 BY MS. PFEIFFER:

17 Q Have you ever put together campaigns that were  
18 specifically targeted to teens or 20s?

19 MS. BESL: Objection. Outside the scope of  
20 direct. And to the extent it goes into any of the  
21 confidential materials, we'll just have to designate.

22 MS. PFEIFFER: Super close.

23 THE WITNESS: Yes, we have targets that do  
24 include teenagers.

25

1 BY MS. PFEIFFER:

2 Q Since you began working there in 2009 --  
3 strike that. Let's just go to the --

4 MS. BESL: Confidential?

5 MS. PFEIFFER: Yeah.

6 MS. BESL: Okay. Can we designate this  
7 portion as confidential?

8 MS. PFEIFFER: It's just easier.

9  
10 (Whereupon, a portion of the transcript  
11 was sealed and bound separately upon  
12 request of counsel.)  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 //

25 //

1 (Whereupon, the nonconfidential portion of  
2 the transcript resumed as follows.)

3

4 BY MS. BESL:

5 Q I just have a couple more questions. Let me  
6 take you back to one of the exhibits shown to you by  
7 opposing counsel.

8 MS. PFEIFFER: V? The hat and the shirt?

9 MS. BESL: That's all right.

10 BY MS. BESL:

11 Q Taking you back to W and V, these are images,  
12 I believe, from the Del Taco Web store. One of the  
13 things opposing counsel took you through was the  
14 description of the mark. The logo that's pictured on  
15 the shirt and the hat -- do you know where they  
16 originated?

17 A I believe from Naugles restaurants.

18 Q So that would -- is that the original Naugles  
19 that was purchased by Del Taco?

20 A Yes.

21 Q And so this was the original logo used by  
22 Naugles prior to the purchase of Del Taco?

23 A I believe so.

24 Q And then on the pages themselves, does the  
25 word "Naugles" appear -- can you identify if the word



1 "Naugles" appears by itself without any stylization  
2 anywhere?

3 A Just in the description, the category, as well  
4 as the navigation and product name.

5 Q So it does appear in the name of the product?

6 A Yes.

7 Q And it doesn't have the logo?

8 A Correct.

9 Q For my memory, did you say you had some hand,  
10 potentially, in this drafting of the description  
11 language?

12 A I may have edited it or approved it.

13 Q And to your knowledge, based on any editing or  
14 approval, was the use of the word "vintage" meant to  
15 convey any specific message?

16 MS. AMEZCUA-MOLL: Objection. Leading. Lacks  
17 foundation. Assumes facts not in evidence.

18 BY MS. BESL:

19 Q I think I clarified that this was based on  
20 your editing or review, and I think you and opposing  
21 counsel discussed at length the use of the words  
22 "classic" and "vintage," so I'm just asking for your  
23 knowledge as to why these words were used.

24 MS. AMEZCUA-MOLL: Same objections.

25 THE WITNESS: It was just meant to acknowledge

1           that we were tapping into the heritage of Del Taco and  
2           Naugles in order to sell the product.

3           BY MS. BESL:

4           Q     Do you use the Del Taco Web site to advertise  
5           the restaurant services offered by Del Taco?

6           A     Yes.

7           Q     So information that would appear there --  
8           strike that.

9                     You mentioned in your testimony with opposing  
10           counsel that you personally had seen advertising  
11           featuring the Naugles mark between -- let me get the  
12           dates right -- 1995 and 2009; is that an accurate  
13           statement?

14           A     Yes. I remember seeing commercials about the  
15           brand coming together.

16           Q     And these commercials featured the Naugles  
17           mark?

18           A     Yes.

19           Q     And they were offered by Del Taco?

20           A     Yes.

21           Q     And going back to the secret menu campaign,  
22           not what's contained in the confidential exhibit,  
23           but -- you talked about how you identified the  
24           existence of the campaign with opposing counsel. What  
25           resources did you review to make that identification as

1 to the secret menu?

2 A We would have reviewed message boards or  
3 chatter online, our own Facebook page, Web sites,  
4 feedback from our restaurants, calls to our (800)  
5 number, anything to -- anything that helps us kind of  
6 gauge conversation about the business.

7 Q And you mentioned that you reviewed Twitter  
8 posts by the petitioner in this case as well; is that  
9 correct?

10 A Yes. We are aware of what he posts about  
11 Naugles and Del Taco.

12 Q And has he made any posts about a secret menu  
13 at Naugles on any of these Web sites or social media  
14 pages?

15 MS. AMEZCUA-MOLL: Objection. Leading. Lacks  
16 foundation. Assumes facts not in evidence.

17 BY MS. BESL:

18 Q To your knowledge?

19 MS. AMEZCUA-MOLL: Outside --

20 MS. PFEIFFER: You said "secret menu at  
21 Naugles."

22 BY MS. BESL:

23 Q Oh. I'm sorry, the idea of a Naugles secret  
24 menu at Del Taco, to your knowledge, based on your  
25 review.

1           A     Yes. I've seen -- on his own Web site he  
2           talks about Naugles menu items available at Del Taco,  
3           both on menu and off menu.

4           Q     So these resources you reviewed -- they were  
5           not authored by Del Taco?

6                     MS. AMEZCUA-MOLL: Objection. The secondary  
7           evidence rule -- the document would speak for itself;  
8           not admitted into evidence; lacks foundation.

9                     MS. BESL: Okay.

10          BY MS. BESL:

11           Q     Based on the review of the resources you just  
12           listed, these were not authored by Del Taco, as asked  
13           by opposing counsel earlier; is that correct?

14           A     That's correct. Most would not have been.

15                     MS. BESL: I think that's it.

16                     MS. PFEIFFER: I have a few redirect -- or I  
17           guess recross. Sorry. I get confused.

18

19                               FURTHER EXAMINATION

20

21                     MS. PFEIFFER: You asked him about the hats  
22           and the shirts.

23          BY MS. PFEIFFER:

24           Q     Did you testify that this is the same logo or  
25           it's the same item, like Naugles used to sell these

1 actual hats and shirts, or Naugles used to sell hats  
2 and shirts bearing the same logo?

3 A I don't think Naugles sold hats and shirts.  
4 What do you mean?

5 Q I'm just trying to -- are you bringing back  
6 something that they used to sell, or you're selling  
7 hats and shirts bearing the old Naugles trademark?

8 A Selling hats and shirts --

9 MS. BESL: Objection to the characterization  
10 of it being a Naugles trademark.

11 THE WITNESS: Selling hats and shirts that are  
12 bearing the name of "Naugles."

13 MS. PFEIFFER: I'm not sure if this goes into  
14 confidential or not, so we can retroactively if you  
15 need it.

16 MS. BESL: That's fine.

17 BY MS. PFEIFFER:

18 Q So you and your counsel keep using the phrase  
19 "Naugles secret menu campaign." Didn't you testify  
20 that that's not an official thing per se?

21 MS. BESL: Objection. Mischaracterization of  
22 his testimony, and argumentative.

23 THE WITNESS: Yeah. I don't understand your  
24 question.

25

1 BY MS. PFEIFFER:

2 Q Okay. Del Taco never spearheaded a Naugles  
3 secret menu campaign, did they?

4 MS. BESL: Objection. Argumentative.

5 THE WITNESS: We didn't have to. We  
6 recognized its existence as something that is alive --

7 BY MS. PFEIFFER:

8 Q Consumer-created; correct?

9 A Consumer-created and -generated, yes.

10 Q So Del Taco never spearheaded and originated  
11 a, quote, "Naugles secret menu campaign"; correct?

12 MS. BESL: Objection. Argumentative.  
13 Misstates testimony. Calls for speculation, I think.

14 THE WITNESS: We facilitate it in our  
15 restaurants. We have not placed any additional effort  
16 other than an occasional social media post or something  
17 to that effect.

18 BY MS. PFEIFFER:

19 Q You also testified that you, quote, always,  
20 consistently discussed the idea of moving forward with  
21 Naugles promotion; correct?

22 MS. BESL: Objection to the extent that it may  
23 misstate his testimony.

24 BY MS. PFEIFFER:

25 Q Tell me if I'm misstating your --

1           A     I've given examples where, yes, we evaluated  
2     the option and felt that, the state of the current  
3     secret menu, we were happy with and we would want to  
4     leave it in that state for now, leave it in the hands  
5     of consumers, so we made the conscious decision to keep  
6     it that way.

7           Q     Okay. In response to discovery requests from  
8     the petitioner -- from Christian Ziebarth in this  
9     matter, which would come through your counsel, you've  
10    produced all evidence of a, quote, "Naugles secret  
11    menu"; correct?

12           MS. BESL: Objection. I don't know if that  
13    would be -- I don't think that was covered by specific  
14    requests propounded by prior counsel. And I also think  
15    that, again, we are outside of a year of discovery.  
16    This would be trial testimony, so I think this is part  
17    of his direct testimony.

18    BY MS. PFEIFFER:

19           Q     You can answer. If your counsel asked for it,  
20    did you give it to them on this issue?

21           MS. BESL: Same objection.

22           THE WITNESS: Yes -- I would have given  
23    anything I was asked for, yes.

24    BY MS. PFEIFFER:

25           Q     Okay. Has Del Taco ever conducted any polls

1 or sought out any data that would reflect this  
2 assumption that customers or consumers have the  
3 knowledge of a Naugles secret menu?

4 MS. BESL: Same objection. Outside the scope  
5 of direct.

6 THE WITNESS: I don't believe we have.

7 MS. PFEIFFER: Nothing.

8 MS. BESL: I've got nothing.

9 MS. PFEIFFER: I think we're done.

10 MS. AMEZCUA-MOLL: Go ahead and propose the  
11 same stipulation, with the deponent receiving it  
12 through Jack's office.

13 MS. BESL: Jack's office.

14 MS. PFEIFFER: So stipulated.

15 MS. AMEZCUA-MOLL: So stipulated.

16 MR. TANG: Agreed.

17

18 (Whereupon, the stipulation from the  
19 deposition of CHRISTIAN ZIEBARTH was  
20 entered into as follows:

21 "MS. NOWELS: Back on the record. So  
22 we've agreed off record to a stipulation  
23 that the court reporter will be relieved  
24 of her duties under the Code. The  
25 transcript will be released to the offices



1 of Amezcua-Moll & Associates at 1122 East  
2 Lincoln Avenue, Suite 203, in Orange,  
3 California 92865, for purposes of review  
4 by the witness; and Amezcua-Moll &  
5 Associates will agree to maintain the copy  
6 of the original and produce it if it's  
7 ever needed for any future proceedings.  
8 We'll also agree that a certified copy or  
9 copies of the transcript may be used in  
10 proceedings, so long as they're redacted  
11 to the extent that they're confidential.  
12 And we're also stipulating that the  
13 transcript will be produced and reviewed  
14 along normal time frames so the witness  
15 will review it within 30 days of receipt.  
16 So stipulated?

17 "MS. BESL: Agreed.")

18  
19 (Whereupon, the deposition was concluded at 12:46 p.m.)

20  
21  
22  
23  
24  
25

PENALTY OF PERJURY

I, \_\_\_\_\_, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

\_\_\_\_\_  
NOAH CHILLINGWORTH

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE  
OF  
CERTIFIED SHORTHAND REPORTER

\* \* \* \*

The undersigned Certified Shorthand Reporter  
of the State of California does hereby certify:

That the foregoing Proceeding was taken before  
me at the time and place therein set forth.

That the testimony and all objections made at  
the time of the Proceeding were recorded  
stenographically by me and were thereafter transcribed,  
said transcript being a true and correct copy of the  
proceedings thereof.

In witness whereof, I have subscribed my name,  
this date: APRIL 4, 2014.

  
STEPHANIE LESLIE, CSR No. 12893



<b>A</b>				
<b>a.m</b> 2:19 5:1	<b>affidavit</b> 4:16	55:22 60:18	<b>April</b> 3:10 5:21	<b>attention</b> 51:12
<b>able</b> 69:25	7:25 8:25 10:3	61:1,7,13	139:17	<b>attorney</b> 3:11
<b>accurate</b> 8:21	11:16 15:19	63:20 64:11,19	<b>archive</b> 59:3	62:22
23:8 24:16	16:8,13 22:18	67:2,7 74:19	<b>archives</b> 59:4	<b>attorney-client</b>
26:10 30:25	23:7,17,23	76:3 87:17	60:7,8,19,20	8:10 29:8,23
33:20 42:6	28:17 32:5	89:16,22	60:21 61:14	36:4,8 51:8
44:25 48:22	54:1,4 56:4,21	129:16,24	<b>area</b> 22:6	75:18 76:15
50:3 54:7 55:2	56:21 57:10,14	131:15,19	<b>argumentative</b>	78:1 84:6
70:18 81:1	57:19 58:3	132:6 136:10	43:12 66:13	<b>Attorneys</b> 3:5
130:12	62:5 67:18	136:15 137:1,4	133:22 134:4	<b>audible</b> 11:23
<b>accurately</b> 82:23	68:13 72:13	<b>and/or</b> 76:9	134:12	<b>author</b> 38:18
<b>acknowledge</b>	82:17 85:7	<b>answer</b> 18:4	<b>aside</b> 7:14,16	49:11
129:25	88:5	20:13 24:24	<b>asked</b> 6:21,23	<b>authored</b> 49:12
<b>action</b> 35:11	<b>affiliate</b> 24:10	39:21 46:13	18:9 42:20	132:5,12
<b>actual</b> 44:1	<b>age</b> 90:5	48:8 52:8	43:12 44:21	<b>available</b> 37:23
53:24 54:6	<b>ago</b> 22:25	54:10 135:19	46:7 61:5	63:22 64:3
58:23 59:18	<b>agree</b> 26:24	<b>answered</b> 21:3	64:22 65:18,24	65:13 66:11,17
133:1	137:5,8	42:20 43:13	66:5,25 76:11	70:5,13 74:4
<b>additional</b>	<b>agreed</b> 136:16	61:5 64:22	77:16 85:9,11	132:2
134:15	136:22 137:17	65:18,24 66:5	132:12,21	<b>Avenue</b> 2:20 3:6
<b>adjustable</b> 31:10	<b>ahead</b> 7:14,16	66:25	135:19,23	137:2
<b>admitted</b> 132:8	17:18 20:13	<b>answering</b> 40:25	<b>asking</b> 17:19	<b>average</b> 90:4
<b>advantage</b> 22:8	24:22 31:14,23	<b>answers</b> 11:23	41:8,14 43:3	<b>aware</b> 19:10
<b>advertise</b> 73:4	31:25 49:19	<b>anybody</b> 40:12	47:11 48:23	35:11,14,17
74:2,16 78:8	59:11 69:22	50:10 52:11	49:3 70:15	50:10 51:5
130:4	75:8,10 80:19	55:19 68:4	76:21 77:8	53:20 55:14
<b>advertised</b> 74:7	85:2 136:10	<b>anybody's</b> 64:6	84:17 88:10	74:14 76:4
74:10	<b>alive</b> 134:6	<b>apologize</b> 38:7	129:22	78:7 131:10
<b>advertising</b> 9:17	<b>alleged</b> 67:24	38:10 78:3	<b>associate</b> 88:19	
10:5,14,17,19	<b>allegedly</b> 70:4	<b>APPEAL</b> 1:3 2:2	89:12	<b>B</b>
11:18 22:22	<b>alluding</b> 18:24	<b>appear</b> 70:12	<b>Associates</b> 3:4	<b>B</b> 4:8 7:4
23:19 37:20	<b>American</b> 86:17	128:25 129:5	137:1,5	<b>back</b> 12:6 22:18
44:8,24 46:16	86:18	130:7 138:6	<b>associating</b>	29:3 32:18
56:7 57:20	<b>Amezcu-Moll</b>	<b>APPEARANC...</b>	31:19	34:8 36:11
58:4,6,9,12,13	3:4,5 4:4 5:18	3:1	<b>assume</b> 74:23	37:13 39:13
58:25 59:18,20	5:18 11:23,25	<b>appears</b> 81:13	78:25,25 89:11	48:10 49:23,24
60:4,12 62:5	18:6 19:3,8	129:1	<b>Assumes</b> 129:17	54:1 56:4
62:17,24 64:8	35:9 36:10	<b>application</b>	131:16	87:22 128:6,11
65:4 66:3,11	37:12 38:1	18:25	<b>assuming</b> 38:11	130:21 133:5
66:17 67:21	39:13,24 40:6	<b>approach</b> 58:12	<b>assumption</b>	136:21
72:14,21 74:25	41:4 42:16,23	58:13,14	88:18 89:1,11	<b>bacon</b> 85:19
76:8,21 77:1	43:23 45:7,17	<b>approval</b> 129:14	89:12 136:2	87:4,10
77:14,20 84:15	45:25 46:8,10	<b>approved</b> 27:15	<b>attached</b> 15:19	<b>bar</b> 18:23
84:18,21,25	46:17,25 47:3	129:12	28:16 32:5	<b>base</b> 60:6 88:18
130:10	47:11,24 48:7	<b>approves</b> 28:4	56:6,20 58:2	89:10,14
	48:10,20 49:4	<b>approximately</b>	61:3 69:7	<b>based</b> 22:25 43:4
	49:16,19 55:17	11:10	138:7	129:13,19

131:24 132:11	81:3,11,20,24	130:3 131:17	<b>brevity</b> 69:24	<b>cancellation</b> 1:9
<b>basic</b> 6:10 24:3	82:1,19 83:4,7	131:22 132:9	<b>brick-and-mo...</b>	2:8 5:12
86:16	85:19 128:12	132:10,15	14:18	<b>Cap</b> 4:11,20
<b>basing</b> 59:5	128:17,23	133:9,16,21	<b>briefs</b> 7:6	<b>capacity</b> 55:8,14
68:12 88:25	136:6	134:4,12,22	<b>bring</b> 87:22	76:25 77:15
<b>basis</b> 43:15	<b>Bell</b> 11:3,4,14	135:12,21	<b>bringing</b> 133:5	85:5
<b>bearing</b> 14:6	<b>Besl</b> 3:10 4:5	136:4,8,13	<b>broad</b> 36:16	<b>Cappasola</b> 9:21
15:1 17:14,24	5:21,21 8:9,15	137:17	<b>bun</b> 44:19 85:17	9:24 10:21
18:1,11,16	13:19 15:14	<b>best</b> 6:23 14:4,16	87:3,10 88:19	<b>careful</b> 14:2
19:11,16 21:5	17:3,15,19	35:13,16,19	89:12	<b>carefully</b> 8:18
21:23 22:10	18:18 19:7	36:5 38:21,25	<b>burrito</b> 85:19,25	<b>case</b> 51:7 52:25
23:3,25 24:5	20:10 21:14	40:18 43:1	87:4,11	63:9 67:12
24:17 29:20	24:20 25:14	46:18 47:18	<b>burritos</b> 38:4	84:13 131:8
32:25 33:3,7	27:4,10,18,25	48:3,14 64:20	<b>business</b> 21:25	<b>cases</b> 68:7 85:21
33:22 34:13,17	28:10 29:7,22	87:18	40:17 83:18	<b>category</b> 129:3
35:3 50:1,4,11	31:13,21 34:4	<b>better</b> 55:25	131:6	<b>cease</b> 50:14
53:11,21 133:2	34:20 35:5	<b>bit</b> 50:1 54:2	<b>buy</b> 85:14,15	52:14,19
133:7,12	36:7 39:11,19	<b>BOARD</b> 1:3 2:2		<b>center</b> 26:14
<b>becoming</b> 83:15	40:2,22 42:9	<b>boards</b> 131:2	<b>C</b>	<b>certain</b> 77:17
<b>bed</b> 49:25	42:19 43:12	<b>boilerplate</b> 6:19	<b>C</b> 7:4	<b>CERTIFICATE</b>
<b>began</b> 10:25	45:3,10,22	<b>bottom</b> 26:19	<b>California</b> 2:18	139:1
13:15 17:6	46:4,9,13,21	58:20 59:16	2:20 3:6 5:2	<b>certified</b> 2:17
18:16 23:3,24	47:1,6,13 48:5	63:11,14,21	9:10 77:10	5:7 137:8
35:3 37:8,16	48:25 50:6,25	65:12,16	137:3 139:8	139:3,7
40:1 62:1	51:7 52:5,25	<b>bound</b> 91:11	<b>called</b> 5:5 23:20	<b>certify</b> 139:8
74:11 91:2	53:15 54:8,22	<b>boxes</b> 60:24	32:8	<b>cetera</b> 83:19
<b>behalf</b> 2:16 5:5	55:5,21,23	<b>brand</b> 9:17,19	<b>calls</b> 8:9 13:20	<b>chain</b> 39:7,10,18
5:19	57:23 59:8,21	9:25 10:4,14	17:3 24:20	<b>changes</b> 86:15
<b>belief</b> 59:5 60:6	60:1,22 61:5	10:18 22:3	27:18 28:10	<b>characterization</b>
67:8 68:12	61:10,16 62:18	25:21 36:13,21	29:7,22 36:8	133:9
<b>believe</b> 11:17	64:9,14,22	40:8 41:10,20	39:20 40:3	<b>characterize</b>
14:12 16:8,11	65:18,24 66:5	42:7 44:7,17	45:10,22 50:6	72:24
21:16 22:21	66:14,25 67:5	45:13 55:25	50:25 54:8,22	<b>characters</b> 15:5
26:13 28:18	68:16,19 70:22	74:1 130:15	57:23 62:18	<b>chatter</b> 131:3
29:2 31:3 36:3	71:3,13,15,25	<b>brand's</b> 38:16	64:9,14 66:6	<b>check</b> 44:18
36:9,13,18	73:5,9,19	<b>branding</b> 37:5	67:5 73:9	<b>cheese</b> 85:25
40:8 41:9,16	74:17 75:5,10	84:25	74:17 75:17	<b>chest</b> 26:20
42:7,15 43:25	75:16 76:13,20	<b>brands</b> 37:22	76:14 77:25	<b>chief</b> 9:19,25
44:16,23 45:8	76:23 77:5,22	38:17 41:3,3	84:5 86:5	<b>Chillingworth</b>
45:12,21 46:11	77:24 78:10,14	58:16,18 59:14	88:21 131:4	1:16 2:16 5:4
50:8,14,16,21	79:4,17 80:1	60:10 63:2	134:13	5:22 6:4 35:10
51:4 52:2,16	80:12 81:10	66:21 67:13	<b>campaign</b> 58:15	68:23 69:13
53:8 54:19,24	83:23 84:5,14	74:24 75:2	60:9 130:21,24	138:15
59:2,13 60:5	86:5 88:8,21	82:4 83:13	133:19 134:3	<b>chose</b> 27:16,21
64:5,12 67:3	90:6,13,19	86:10	134:11	<b>chosen</b> 62:15
67:19 73:11,16	91:4,6 128:4,9	<b>break</b> 34:5 68:16	<b>campaigns</b> 18:3	<b>Christian</b> 1:6
75:1 79:19	128:10 129:18	68:19	90:17	2:5 5:13 135:8

136:19	53:21 73:2	62:19 88:22	<b>CONTINUED</b>	71:3 72:6,7,22
<b>Cincinnati</b> 3:12	<b>coaching</b> 19:5	<b>conclusions</b> 46:7	49:21 60:17	74:3,5,6,8,9
<b>City</b> 138:11	<b>Code</b> 136:24	<b>concrete</b> 33:16	61:20 63:19	75:25 77:21
<b>claim</b> 15:5 18:21	<b>coffee</b> 6:24	33:17 55:10	65:1	78:12,13,19
<b>clarification</b>	<b>collaboration</b>	67:15	<b>continuous</b>	80:10 81:8,15
81:14	76:9	<b>concretely</b> 88:1	36:23	81:19 82:7,9
<b>clarified</b> 129:19	<b>collaborative</b>	<b>conducted</b>	<b>contradiction</b>	82:12,13 85:9
<b>clarify</b> 23:23	36:2 40:14	135:25	33:25	88:3,16,17
76:20 77:9	<b>collecting</b> 84:12	<b>conference</b> 6:22	<b>control</b> 50:1,3	89:24,25 90:2
78:11 81:10	<b>colon</b> 29:12	<b>confidential</b>	<b>conversation</b>	129:8 131:9
84:14	<b>color</b> 4:11 15:6	83:21 90:21	14:1 41:24	132:13,14
<b>clarifying</b> 55:23	15:12	91:4,7 130:22	42:22 43:6	134:8,11,21
77:6	<b>combination</b>	133:14 137:11	89:15,19 131:6	135:11 138:9
<b>clarity's</b> 7:5	23:18 38:16	<b>confused</b> 132:17	<b>conversations</b>	139:14
<b>class</b> 13:2,5	41:3	<b>connection</b> 5:12	41:1 42:13,18	<b>corrected</b> 138:8
29:11,13 32:22	<b>combined</b> 37:24	36:15 40:9	43:5,15 55:19	<b>corrections</b>
<b>classes</b> 43:17	57:18 58:18	41:21 44:3	59:22 89:17,23	138:6
<b>classic</b> 26:17	<b>combining</b> 22:5	56:8 57:10	<b>converted</b> 22:6	<b>correctly</b> 11:19
27:21 28:1,19	<b>come</b> 21:4 49:23	58:4,6,9 61:23	<b>convey</b> 129:15	15:7 32:1
31:7,11,12	59:14 66:21	<b>conscious</b> 135:5	<b>copies</b> 15:11	56:10 65:14
32:10 129:22	74:24 84:21	<b>consider</b> 28:8	137:9	67:22
<b>clear</b> 6:13 12:2	85:20 89:10	87:5	<b>copy</b> 56:12 137:5	<b>cotton</b> 26:18
31:25 34:10	135:9	<b>considered</b> 27:3	137:8 139:14	31:8
41:12 46:24	<b>coming</b> 41:2	<b>considers</b> 86:21	<b>corporate</b> 9:11	<b>counsel</b> 5:16,20
59:11 61:22	53:12 58:16,22	<b>consistent</b> 54:4	<b>correct</b> 9:2,3,12	5:21 8:8,12
77:9 78:4 85:3	60:10 63:2,16	60:9 83:10	10:1,6 12:20	36:6 40:11,12
<b>clearly</b> 43:9	67:13 75:2	<b>consistently</b>	13:5 14:9,11	41:7,15,19
<b>click</b> 81:13	130:15	38:15 48:18	14:24 15:6,20	42:2,14 43:4
<b>close</b> 90:22	<b>comma</b> 13:4	49:2 82:20	16:21 17:7,10	52:11 53:1
<b>closed</b> 44:5	29:12 32:21	134:20	18:17 20:18	68:7,10 69:17
54:21 65:22	<b>commencing</b>	<b>consists</b> 15:5	22:23 23:9	69:19,21 70:1
<b>closet</b> 60:24	2:18	<b>constitute</b> 70:2	24:1,2,14,15	71:23 72:5
<b>clothes</b> 24:7	<b>commerce</b> 14:6	<b>consumer</b> 65:6	24:19,25 25:3	75:14 76:10
<b>clothing</b> 11:18	<b>commercials</b>	77:9 82:6	25:5 26:22	77:18 84:13
13:4 14:6,22	130:14,16	<b>Consumer-cre...</b>	30:8,12,13	85:8 91:12
15:1 16:23	<b>common</b> 13:23	134:8,9	31:20 32:22	128:7,13
17:14,24 18:1	<b>companies</b> 22:5	<b>consumers</b>	33:19,21 34:1	129:21 130:10
18:16 19:10,15	36:20	135:5 136:2	34:13,14,18,19	130:24 132:13
21:23 22:10,22	<b>company</b> 20:6	<b>contact</b> 20:20,21	35:2,2,23 37:1	133:18 135:9
23:1,3,8,19,20	24:18 40:16	29:1 32:15	37:2,6,7 45:2	135:14,19
23:21,24 24:4	58:10 79:13	75:24	48:4,16 49:7	<b>couple</b> 128:5
24:14,17 25:1	<b>concluded</b>	<b>contained</b>	53:13 55:22	<b>course</b> 40:17
29:12 32:20,21	137:19	130:22 138:8	57:1 61:24,25	83:18
34:12,17 35:3	<b>conclusion</b> 13:20	<b>content</b> 70:23	62:2,3,7 63:12	<b>court</b> 37:15
44:24 45:1,2,5	24:21 39:20	<b>continue</b> 41:25	64:3 65:9,10	39:15 47:17
49:25 50:1,4	40:3 45:11,23	44:6 66:22	65:17,23 66:24	48:13 136:23
50:11 51:6,13	50:7 54:9,23	86:11	68:13 69:15	<b>courtesy</b> 13:23

<b>covered</b> 135:13	<b>defined</b> 47:6	80:7 82:11,20	47:7 70:5,24	61:2 67:3 69:3
<b>create</b> 66:10,16	<b>definitions</b> 46:6	83:11,12,15	71:4 78:21	69:20 80:15,20
<b>created</b> 66:4,8	<b>degrees</b> 10:16	84:3 85:15	<b>differentiate</b>	80:22 132:7
67:3 79:20	<b>Del</b> 1:9 2:8 4:10	86:2,17 87:9	29:6	<b>documents</b>
<b>cross-examina...</b>	5:14,14,20,21	87:15 88:20	<b>differentiating</b>	16:17 57:4
1:15 2:15 4:15	5:23 7:4 9:1,11	89:4,7,10,13	46:22	68:24 72:17
5:11	9:17 10:5,17	89:14 128:12	<b>differently</b> 23:13	75:4,14,25
<b>crowd</b> 90:11	10:22,25 11:17	128:19,22	23:14	76:10 77:17
<b>crown</b> 31:9	13:3,15 14:5,9	130:1,4,5,19	<b>differing</b> 10:16	84:13,16,20
<b>crux</b> 46:12	14:22,25 15:10	131:11,24	<b>digitally</b> 65:5	85:4,9
<b>CSR</b> 1:23 139:21	16:23 17:6,10	132:2,5,12	<b>DINSMORE</b>	<b>doing</b> 55:20
<b>current</b> 28:9	17:23 18:1,15	134:2,10	3:10	<b>double</b> 26:18
55:9 73:1	19:14,18 21:4	135:25	<b>direct</b> 20:11	<b>draft</b> 8:1,7,16,19
80:23 135:2	21:22 22:3,4	<b>DelTaco.com</b>	21:15 25:15	<b>drafted</b> 8:3 27:9
<b>currently</b> 9:23	22:21 23:1,3,7	25:8,13 78:18	27:11 45:24	<b>drafting</b> 8:5
18:12 30:4	23:24 24:4,10	79:9 80:24	52:7 60:23	129:10
33:1 34:12	24:11,16 25:2	81:1,22	61:17 75:17	<b>drive</b> 11:13
72:20 74:9	25:7,16,18	<b>DelTacoWebS...</b>	76:14 77:25	<b>duly</b> 5:6
78:6	28:8 29:5	24:9 25:4,5,8	79:5,18 80:2	<b>duration</b> 77:15
<b>customer</b> 83:12	30:10 31:12,19	25:22 26:9,11	80:13 90:7,14	<b>duties</b> 9:15
83:12 90:4	32:2,19,24	29:19 30:23	90:20 135:17	10:13 136:24
<b>customers</b> 65:5	33:22 34:12,17	31:1	136:5	
86:25 87:10	36:14,15,20,25	<b>department</b>	<b>Directly</b> 21:7	<b>E</b>
136:2	37:10,19,23,25	14:10 20:5	<b>director</b> 10:4,14	<b>E</b> 4:1,8
<b>cut</b> 23:10	38:17 39:2,4,7	25:18,19,20	10:18 11:8	<b>earlier</b> 35:22
	39:10,18 40:1	27:24 28:4	<b>discovery</b> 53:16	44:12,21 46:15
<b>D</b>	40:9,10 41:2	<b>deponent</b> 136:11	135:7,15	48:2 49:12
<b>D</b> 4:1	41:11,12,20,21	<b>deposition</b> 1:15	<b>discussed</b> 48:2	63:1 64:1
<b>data</b> 136:1	42:1,8 43:25	2:15 6:8 53:16	53:1 78:16	83:16 132:13
<b>date</b> 13:18 23:21	44:16,23 46:19	53:17 136:19	83:16,18	<b>easier</b> 91:8
26:25 45:1	47:20 49:9	137:19	129:21 134:20	<b>East</b> 2:19 3:6,11
57:21 58:7	50:3,12 52:12	<b>derived</b> 43:2	<b>discussing</b> 65:11	137:1
59:1 64:13	53:13,20 54:5	<b>description</b> 4:9	<b>discussion</b> 69:1	<b>edited</b> 38:24
71:4 139:17	54:17 55:3,8	11:12 26:15	82:14	49:13 129:12
<b>dates</b> 70:5,13	55:10 56:7,12	28:5 31:5	<b>discussions</b>	<b>editing</b> 129:13
130:12	57:18,20,21	128:14 129:3	40:16 56:1	129:20
<b>day</b> 55:3 138:10	58:15,25 59:16	129:10	83:16 89:20	<b>edits</b> 38:20,22
<b>days</b> 27:6 137:15	59:22 60:12	<b>designate</b> 90:21	<b>displayed</b> 16:20	<b>effect</b> 86:1 87:22
<b>deal</b> 52:12	61:23 63:22	91:6	17:25	134:17
<b>decade</b> 81:13	65:13 66:10,16	<b>designed</b> 58:16	<b>displaying</b> 16:23	<b>effort</b> 134:15
<b>decision</b> 21:22	66:21 67:19,20	<b>desist</b> 50:14	<b>division</b> 11:14	<b>egg</b> 85:19 87:4
22:9,12 135:5	68:2,25 69:4,9	52:14,20	<b>divulging</b> 36:4	87:10
<b>declaration</b>	69:10 72:13,14	<b>difference</b> 6:20	<b>document</b> 7:2,10	<b>either</b> 15:24
36:12 40:21	72:15,21 73:3	70:3,11	7:12,17,22 8:1	<b>elaborate</b> 22:1
46:12 61:3	73:17 74:15	<b>different</b> 11:7	8:3,5,7,16,18	<b>employed</b> 83:11
64:2	77:2,9,11,15	16:24 17:25	12:8,14,20,23	83:15
<b>declare</b> 138:4	78:6,7 79:2	23:21 30:11	30:14 57:10	<b>employee</b> 42:17

<b>employees</b> 42:13 43:5,19,20 83:17 89:3	<b>exclusive</b> 50:3 <b>exclusively</b> 14:20	40:2 45:10 46:6 50:6 59:8 62:18 73:9	<b>felt</b> 135:2 <b>Field</b> 11:8 <b>Fifth</b> 3:11	<b>Forest</b> 9:10 <b>forgot</b> 13:22 <b>form</b> 36:24 37:9
<b>enlisted</b> 75:22	<b>EXECUTED</b> 138:10	74:17 75:17 76:14 77:25	<b>figures</b> 32:16 <b>filed</b> 35:11	37:18 40:22 47:22 78:10
<b>entail</b> 9:15	<b>executive</b> 55:8	84:5,17 86:5	<b>files</b> 60:25	<b>formal</b> 12:1
<b>entered</b> 136:20	77:10,15 85:5	88:21 90:20	<b>final</b> 44:22	<b>formed</b> 43:4
<b>entitled</b> 6:18 43:1 69:3	<b>exhaust</b> 40:18	134:22 137:11	<b>finalized</b> 8:19	<b>former</b> 83:17
<b>entity</b> 24:4,6,13 25:11	<b>exhibit</b> 7:7,18,19		<b>find</b> 17:23 20:7	89:3
<b>environment</b> 36:2	12:9,10 15:10	<b>F</b>	28:1 68:6 81:2	<b>forth</b> 43:2
<b>establish</b> 85:4 86:20	15:15,19,22	<b>Facebook</b> 131:3	82:11	139:10
<b>established</b> 72:9	16:20 19:19	<b>facilitate</b> 67:12	<b>fine</b> 46:11 68:18	<b>forward</b> 37:5
<b>estimate</b> 6:18,21 6:21,23 22:14	22:19 23:2	134:14	70:17,21 71:10	64:21 66:22
50:24	24:5,8 25:25	<b>fact</b> 14:25 32:24	71:13 83:23,24	134:20
<b>et</b> 83:19	26:1 28:15,16	59:4,13 60:7	133:16	<b>found</b> 51:15
<b>evaluated</b> 135:1	29:3 30:11,15	67:25 70:9	<b>first</b> 5:6 11:16	53:12 60:20
<b>evidence</b> 84:3	30:16 32:4,4	74:24 82:3	13:11 14:5,17	63:12 81:23
129:17 131:16	32:19 34:11,11	<b>facts</b> 8:22 129:17	18:16,23,23	<b>foundation</b> 46:2
132:7,8 135:10	34:15,16 36:11	131:16	22:20 35:10	59:19 129:17
<b>exact</b> 16:21 58:7	56:6,13,14	<b>fall</b> 84:24	36:12 37:8,16	131:16 132:8
70:3 71:6	61:4,22,25	<b>familiar</b> 6:7	39:25 57:9	<b>four</b> 87:21
<b>exactly</b> 19:24	63:10 65:3,12	12:15,19 59:15	59:25 69:12	<b>frame</b> 6:25
20:8 22:13	69:3,5 71:19	83:13 90:4	73:8 76:4 79:2	74:14
33:8,10 35:21	80:15,16 81:8	<b>fans</b> 66:19	<b>first-use</b> 18:20	<b>frames</b> 57:22
36:17 39:2	81:17 88:6	<b>far</b> 19:15,17	18:21	137:14
42:12,21 43:17	130:22	23:5 24:25	<b>fit</b> 31:10	<b>franchisees</b>
43:21 50:23	<b>exhibits</b> 7:4	53:17 84:19	<b>five</b> 11:10	11:13
59:1 71:9	68:25 69:8,9	<b>favor</b> 69:23	<b>flyer</b> 88:2	<b>freestanding</b>
85:23 87:25	69:23 70:2,10	<b>favorites</b> 37:23	<b>flyers</b> 65:5 74:23	44:6
<b>examination</b> 4:2	71:2 78:5	86:18,19	87:8	<b>front</b> 26:22
6:1 35:8 49:21	128:6	<b>featured</b> 62:12	<b>folks</b> 40:15,16	<b>frustrating</b>
60:17,23 61:20	<b>exist</b> 80:6	63:8 130:16	41:24 75:22	42:24
63:19 65:1	<b>existed</b> 39:6	<b>featuring</b> 56:9	83:17	<b>further</b> 77:20
132:19	88:15	62:6 63:4	<b>follow-up</b> 55:17	132:19
<b>examined</b> 5:7	<b>existence</b> 54:18	130:11	60:19	<b>fusion</b> 86:23
<b>example</b> 6:20	84:3 130:24	<b>February</b> 10:9	<b>following</b> 22:7	<b>future</b> 33:6
38:6 56:7 68:2	134:6	37:1,5,8,17	<b>follows</b> 5:8	55:12 137:7
85:17	<b>exists</b> 66:12,18	39:9,16,25	37:15 39:15	
<b>examples</b> 74:22	72:21	41:13,14 46:20	47:17 48:13	<b>G</b>
135:1	<b>expand</b> 33:15	47:21 55:18	128:2 136:20	<b>gap</b> 41:13
<b>exclamation</b> 31:11	<b>experience</b> 58:24	62:2 64:21	<b>font</b> 15:6 16:21	<b>Garment</b> 31:7
<b>excluding</b> 59:21	<b>explore</b> 47:5	70:6,14 73:6	16:24 17:20	<b>gather</b> 75:3,14
	<b>extent</b> 8:9 13:19	74:11 89:23	18:11 63:13	<b>gauge</b> 131:6
	18:22 24:20	<b>feedback</b> 89:20	<b>fonts</b> 17:25	<b>general</b> 88:14
	29:7,22 34:20	131:4	<b>food</b> 66:11,17	<b>generally</b> 71:6,7
	36:7 39:19	<b>feeling</b> 45:15,18	<b>foregoing</b> 138:5	87:13
		<b>fellow</b> 42:13,17	139:9	<b>generated</b> 134:9



<b>geographically</b> 9:9	<b>guests</b> 85:20	<b>hem</b> 26:19	<b>include</b> 90:24	<b>Introduced</b> 4:9
<b>getting</b> 77:3	<b>guy</b> 46:14	<b>hereto</b> 56:6	<b>including</b> 59:23	<b>Irrelevant</b> 31:13
<b>give</b> 6:13,20,24	<hr/> <b>H</b> <hr/>	138:7	<b>incorrect</b> 14:13	<b>issue</b> 82:15
43:16,19 50:24	<b>H</b> 4:8	<b>heritage</b> 130:1	33:19,21	135:20
76:10 135:20	<b>hair</b> 47:10	<b>Herstoff</b> 25:21	<b>independent</b>	<b>item</b> 84:24 88:3
<b>given</b> 85:10	<b>half</b> 35:20 79:14	79:11	69:18 72:19	88:23 132:25
135:1,22	<b>Halfway</b> 31:4	<b>highlight</b> 82:3	<b>indicated</b> 32:15	<b>items</b> 13:16
<b>go</b> 7:14,16 12:3	<b>hand</b> 7:17 15:9	<b>historical</b> 57:4	40:20 49:5	14:22 17:13
16:12 17:18	<b>hand</b> 21:12,17 25:24	<b>history</b> 4:22	60:20	18:9,11,12,16
20:13 24:22	30:14 80:14	38:16 41:2	<b>indicates</b> 13:2,11	19:15 24:5,14
26:11 31:14,23	129:9	45:15 48:2,4	18:15 23:7	24:17 34:12,16
31:25 36:11	<b>handing</b> 7:2	48:15,18,24	32:20	37:24 44:11,13
49:19,24 56:3	12:8 56:12	49:6,9 72:20	<b>indicating</b> 29:4	44:15,19 50:4
59:11 69:22	68:23	72:25 73:1	<b>individual</b> 81:12	50:11 51:13,17
75:8,10 80:19	<b>handled</b> 79:22	78:6 80:23,25	<b>infer</b> 66:3	53:21 63:22
80:25 84:19	79:25	81:4 83:19	<b>information</b>	65:12 66:11,17
85:2 91:3	<b>handles</b> 21:4	<b>Hodgins</b> 29:2	14:13 41:19	66:20 73:13,17
136:10	79:9	<b>hold</b> 9:23 10:10	42:4 59:3 68:4	73:25,25 74:3
<b>goes</b> 34:20 49:7	<b>handout</b> 65:5	<b>honest</b> 35:12	68:12 84:7	74:11,16 82:20
49:10 51:7	<b>hands</b> 135:4	<b>honestly</b> 51:16	130:7	83:19 84:4
52:25 90:20	<b>happy</b> 135:3	<b>house</b> 6:25	<b>informed</b> 11:17	85:6,13,14
133:13	<b>hard</b> 13:25	<b>hugger</b> 31:8	22:21 36:13	86:3,12,21
<b>going</b> 6:16 7:5,5	<b>hat</b> 15:23 16:19	<b>huh-uhs</b> 6:14	40:7,10,13,20	87:1,5,7,11,22
7:16 12:8 15:9	25:1 30:23	<b>hundreds</b> 43:14	40:25 41:9,15	132:2
18:18 20:10	32:3,4,7 34:11	<hr/> <b>I</b> <hr/>	42:3,14 43:25	<hr/> <b>J</b> <hr/>
21:14 25:24,24	34:16 128:8,15	<b>ID</b> 29:4 32:20	44:23 52:19	<b>Jack</b> 5:20 53:1
27:4 30:14,15	<b>hats</b> 13:4 17:6	<b>idea</b> 4:13 22:9	67:19,24 68:5	<b>Jack's</b> 136:12,13
45:3 49:23	19:18,23 20:19	29:18 30:5	68:6,9 82:19	<b>jacket</b> 33:3
52:5 53:15	20:23 21:5	33:21 35:22,25	83:4,7	<b>jackets</b> 13:5
56:3 66:22	24:7 29:13	36:3,6 131:23	<b>informs</b> 87:9	29:13 32:22,25
69:2 75:9	31:2 32:10,21	134:20	<b>initialed</b> 138:7	33:6,22
77:24 78:3	35:23 132:21	<b>identification</b>	<b>initiated</b> 5:13	<b>job</b> 10:8,10 11:6
80:14,15	133:1,1,3,7,8	7:8,20 12:11	<b>ink</b> 138:7	11:12
130:21	133:11	15:16 26:2	<b>insert</b> 20:10	<b>Joe</b> 20:14
<b>good</b> 5:10 6:4,5	<b>head</b> 6:12 7:13	30:17 33:18	21:14 52:5	<b>John</b> 9:21,24
6:15 34:4	31:10	56:15 69:6	<b>intended</b> 11:25	<b>Jon</b> 29:2
<b>goods</b> 29:5 33:18	<b>headquarters</b>	80:17 130:25	36:17	<b>jump</b> 49:16
<b>grabs</b> 80:23	9:11	<b>identified</b>	<b>internal</b> 89:20	<hr/> <b>K</b> <hr/>
<b>great</b> 68:20	<b>hear</b> 89:2,2,20	130:23	<b>international</b>	<b>keep</b> 7:5 21:16
<b>ground</b> 6:10	<b>heard</b> 38:10	<b>identify</b> 128:25	13:1 29:11	133:18 135:5
<b>group</b> 68:23	<b>held</b> 9:4,22 11:9	<b>images</b> 128:11	<b>Internet</b> 4:19,20	<b>keeps</b> 21:11
<b>guess</b> 6:3,19,21	69:1 79:15	<b>imply</b> 19:5	4:22	<b>Kelly</b> 3:4 5:16
7:1 23:10,15	<b>help</b> 8:5 75:3,22	<b>importance</b> 63:3	<b>interpret</b> 23:16	63:21
23:18,20 39:19	76:3	<b>inactive</b> 82:1,5	<b>interpreting</b>	<b>kept</b> 59:2
90:8 132:17	<b>helped</b> 8:7,15	<b>inception</b> 75:12	23:14	<b>kind</b> 6:7 23:22
<b>guessing</b> 89:6	<b>helps</b> 12:1 131:5	<b>incident</b> 53:23	<b>interrupted</b>	
			33:12	

24:3 54:2 83:7	<b>knowledge</b> 6:18	<b>Leslie</b> 1:23 2:17	<b>look</b> 6:22 12:13	33:23 35:4
83:9 84:11	14:4,16 17:13	139:21	13:1,9 15:3,18	44:3,24 45:8
86:22 131:5	19:14 20:23	<b>Let's</b> 6:16 32:18	22:19 26:4,11	45:12,21 46:2
<b>kindly</b> 37:12	21:19 22:3	54:1 67:17	26:14 29:4	46:3 50:2,5,11
<b>kitchen</b> 86:3	29:19 30:12	91:3	30:19 54:1	51:20 53:11,21
<b>knew</b> 22:3	33:2,5 34:21	<b>letter</b> 52:14,17	56:4,17 69:23	56:9 62:6,16
<b>know</b> 8:22 9:22	37:4 39:5	52:20	71:1 80:19	63:7 67:20
10:15 11:7	46:18 47:18	<b>letters</b> 50:14	90:8	68:3 69:2
12:14,16 13:25	48:3,15 50:2	<b>leveraging</b> 55:25	<b>looked</b> 29:21	72:13 73:4,11
16:1,3,16,17	53:19 54:15	<b>liaison</b> 20:4	73:2	78:8 80:15
16:18 17:1,2,4	57:24 58:5,10	<b>Lincoln</b> 2:19 3:6	<b>looking</b> 22:2	81:5,19,23
17:12 18:4,6,8	64:20 82:10,19	137:2	29:9 33:11,13	82:12 128:14
18:10 19:15,17	83:3,6,14 84:2	<b>line</b> 13:9 33:15	33:14 62:10	130:11,17
19:24,25 20:1	129:13,23	36:12 38:5	69:12 78:5	<b>marked</b> 7:8,20
20:2 21:11,22	131:18,24	40:21 52:6	<b>looks</b> 11:20	12:11 15:10,16
22:6,7 23:5	136:3	<b>linear</b> 49:9	12:15,17,19	22:19 23:2
24:25 25:20	<b>knows</b> 27:6	<b>linked</b> 25:7	15:8 26:8,11	26:2 30:17
26:5 27:9,16		<b>list</b> 7:3 9:16	63:15 81:9	56:6,15 69:6
27:19,21,22,23	<b>L</b>	<b>listed</b> 29:5,17	<b>lot</b> 6:16 84:16,20	69:10 80:17
28:19,22 29:5	<b>lacks</b> 129:16	30:6 33:18	<b>Louis</b> 21:2 28:25	<b>market</b> 17:13
29:16 30:9	131:15 132:8	132:12	<b>loyal</b> 22:7	<b>marketing</b> 4:13
32:12,13 34:2	<b>Lake</b> 9:10	<b>litigation</b> 75:4		5:23 9:1,6,14
38:24 39:5,8	<b>language</b> 129:11	<b>little</b> 22:1 42:24	<b>M</b>	9:16 10:5,11
40:24 41:8	<b>late</b> 39:3 51:4	50:1 54:2	<b>M</b> 1:6 2:5	10:14,16,19,22
42:12,12 43:17	86:10	<b>live</b> 5:11 78:7	<b>Machine</b> 70:4,12	10:24 11:8
45:15 50:13	<b>launched</b> 79:3	82:8,10	71:5	14:10 17:9
51:2,3,12,22	<b>Law</b> 3:5,11	<b>LLC</b> 1:9 2:8	<b>MACHO</b> 38:4,5	18:3 20:5
52:13,14,22	<b>lawsuit</b> 53:24	69:4	38:5,9,12	21:10,11 25:23
53:2,4,6,9,10	<b>lawyer</b> 52:18	<b>located</b> 21:1	44:13,15 85:19	27:24 28:4,23
53:23,25 55:13	<b>lawyers</b> 6:20	28:24	87:4,10	32:9,14 38:11
56:23 57:12,13	<b>lay</b> 18:25	<b>logical</b> 66:3	<b>maintain</b> 137:5	46:14,19 47:20
58:7,8 59:24	<b>Leading</b> 129:16	<b>logo</b> 26:20,22	<b>maintained</b>	55:9,20 64:7
60:4,21 61:8	131:15	31:9,19 45:14	60:21 61:15	84:21 90:2
61:14 62:22	<b>leave</b> 18:18	45:18 46:19,22	<b>making</b> 46:1	<b>materials</b> 90:21
64:10,15 65:3	43:13 135:4,4	46:25 47:2,3,9	<b>manager</b> 25:21	<b>matter</b> 135:9
65:4,7 66:7,20	<b>led</b> 43:7	47:12,13,19,23	<b>March</b> 1:17 2:19	<b>mean</b> 8:2 23:17
67:15,16 70:23	<b>legal</b> 8:8,12	48:17 49:5	5:1 21:23	24:6 31:12
71:3,3 72:4	13:20 19:4	51:23,25	38:23 49:14	32:1 33:9,9
73:8 74:19,21	24:21 39:20	128:14,21	<b>mark</b> 7:2,17	39:22 40:5
74:22 75:12	40:3,11,12	129:7 132:24	11:18 12:9	42:25 44:4
78:22,23,24	42:14 45:11,23	133:2	13:3 14:6 15:4	47:6 58:14
79:2,6,12,15	46:7 50:7	<b>long</b> 9:4,16	17:14 18:17	76:23 86:9
79:22,23,25	52:11 54:8,23	79:12 137:10	19:11,16 21:5	133:4
80:9,11 83:9	62:19 68:7,10	<b>longer</b> 20:6	22:10,22 23:4	<b>meaning</b> 82:5
85:4 88:25,25	88:22	54:18 61:23	23:8,25 24:5	<b>means</b> 23:18
89:1 128:15	<b>length</b> 6:22,24	64:3 66:12,18	25:25 30:10,15	<b>meant</b> 31:17
135:12	129:21	67:11	32:25 33:3,7	129:14,25

<b>media</b> 87:14 131:13 134:16	59:9 61:10 134:13	39:17,23 40:4 40:8,15,19	<b>necessarily</b> 90:15	45:10,22 46:21 48:5,25 50:6
<b>meetings</b> 89:20	<b>misstating</b> 59:11	41:1,10,19,25	<b>neckline</b> 26:19	50:25 51:7
<b>memory</b> 40:18	85:2 134:25	42:7 43:20	<b>need</b> 6:3,11	52:6 54:8,22
76:4 129:9	<b>moment</b> 12:13	44:1,6,9,16,24	11:23 21:20	55:5 57:23
<b>mentioned</b> 72:20	33:16,17 47:5	45:8,12,21	133:15	59:8 60:22
130:9 131:7	<b>Monday</b> 1:17	46:1,3,18,23	<b>needed</b> 137:7	61:5,10,16
<b>menu</b> 4:10 42:1	2:19 5:1	47:19 48:17	<b>needle-stitched</b>	62:18 64:9,14
44:11 55:25	<b>morning</b> 5:10	50:2,5,11	26:19	64:22 65:18,24
57:17 73:12,15	6:4,5	51:20,22 53:11	<b>never</b> 16:9 19:15	66:5,25 67:5
73:17 74:1,2,8	<b>moving</b> 64:21	53:21 54:5,16	38:10 44:2	73:9 74:17
74:10,16 82:15	134:20	54:21 55:4,12	134:2,10	75:5,16 76:13
82:20 84:4,24		55:21,25 56:9	<b>new</b> 33:14 79:19	77:22 79:4,17
85:6,12 86:11	<hr/> <b>N</b> <hr/>	57:18 59:16	<b>Noah</b> 1:16 2:15	80:1,12 84:5
86:13,15,16,21	<b>N</b> 4:1	62:6,16 63:6	5:4,22 15:13	86:5 88:21
87:6 88:6,10	<b>name</b> 6:4 20:9	63:10,12,23,24	138:15	90:6,13,19
88:23 130:21	21:9 24:13	64:2 65:13,17	<b>nomenclature</b>	129:16 131:15
131:1,12,20,24	29:1 42:2,12	65:21 66:19,20	38:5,9	132:6 133:9,21
132:2,3,3	42:17 44:1	66:24 67:20	<b>nonconfidential</b>	134:4,12,22
133:19 134:3	54:6 79:8	68:3 72:13	128:1	135:12,21
134:11 135:3	129:4,5 133:12	73:4,13,15,18	<b>normal</b> 14:1	136:4
135:11 136:3	139:16	73:24,25 74:1	137:14	<b>objections</b> 19:4
<b>menus</b> 37:24	<b>name's</b> 5:16	74:3,4,7,11,15	<b>nos</b> 6:14	19:4 46:8,10
58:21 74:16	<b>named</b> 24:18	78:8 81:4,6,19	<b>nostalgic</b> 31:17	129:24 139:11
83:13 86:14,23	55:4,12	81:23 82:12,15	<b>noted</b> 138:7	<b>obnoxiously</b>
<b>merged</b> 37:22	<b>names</b> 42:2	82:22 83:12,17	<b>notice</b> 4:15,17	42:25
<b>merger</b> 36:19	<b>Naugles</b> 4:10,11	83:18,19 84:4	4:21 69:4,12	<b>obviously</b> 6:12
81:6	4:19,20 5:15	85:5,6,15 86:3	69:14	<b>occasion</b> 50:15
<b>message</b> 129:15	11:18 13:3,16	86:17,21 87:1	<b>NOWELS</b>	<b>occasional</b>
131:2	14:6 15:1	87:6,11 88:3	136:21	134:16
<b>Mexican</b> 86:17	16:20,24 17:14	88:10,15,19,23	<b>number</b> 89:19	<b>October</b> 44:2,17
86:18	17:24 18:2,11	89:13 128:17	131:5	54:6,16,20
<b>mind</b> 43:6 45:20	18:16 19:11,16	128:18,22,25		55:2 64:3,7
<b>minute</b> 12:4 29:3	21:5,24 22:4,6	129:1 130:2,11	<hr/> <b>O</b> <hr/>	65:22 66:4
70:7 80:19	22:6,10,22	130:16 131:11	<b>object</b> 27:4 36:7	67:4 70:6,14
83:22	23:4,8,25 24:5	131:13,21,23	40:22 45:3	<b>off-menu</b> 44:18
<b>minutes</b> 22:25	24:13,18,18	132:2,25 133:1	53:15 75:17	<b>offered</b> 32:3
<b>mischaracteri...</b>	25:2 26:9,20	133:3,7,10,12	77:24 78:10	82:20 130:5,19
45:4 48:25	26:22 28:13	133:19 134:2	<b>objection</b> 8:9	<b>offerings</b> 33:15
133:21	29:20 30:10,23	134:11,21	13:19 17:3,15	<b>office</b> 1:2 2:1
<b>mischaracteri...</b>	31:9,19 32:25	135:10 136:3	18:19,25 20:11	18:21 36:2
31:22 42:10	33:3,7,22	<b>Naugles-named</b>	21:15 24:20	40:14 57:5
48:6	34:13,18 35:4	82:21	25:14 27:10,18	136:12,13
<b>Missouri</b> 21:2	36:13,20 37:4	<b>Naugles/Viva</b>	28:10 29:7,22	<b>officer</b> 9:19,25
28:25	37:10,18,22,24	58:15	31:13,21 34:20	<b>offices</b> 136:25
<b>misstate</b> 134:23	38:17,19,24	<b>navigation</b> 129:4	39:19 40:2,23	<b>official</b> 18:23
<b>misstates</b> 17:15	39:1,2,3,6,10	<b>near</b> 33:6	42:9,19 43:12	67:20 72:14

133:20	<b>opened</b> 82:22	90:6,13,19	<b>parsed</b> 44:25	59:25 74:14
<b>oh</b> 11:24 13:8	<b>opening</b> 55:21	131:19 135:15	<b>part</b> 16:8 22:4	75:3,7,13
27:25 35:5	55:24	136:4	38:17 39:3	77:13,14
83:23 131:23	<b>operated</b> 54:17	<b>oversees</b> 25:13	73:25 86:16	130:10
<b>Ohio</b> 3:12	55:3	25:22	87:6 135:16	<b>perspective</b> 47:7
<b>okay</b> 7:14,16	<b>operating</b> 55:11	<b>overstep</b> 76:24	<b>particular</b> 15:6	<b>pertain</b> 37:5
11:15 12:22,25	<b>operators</b> 43:14	<b>owned</b> 36:14	62:15	<b>pertaining</b> 85:5
13:22 15:14	89:21	40:8 41:10,20	<b>parties</b> 42:3,3	<b>petitioner</b> 1:7
18:14 19:2	<b>opinion</b> 84:25	42:8 54:17	<b>partner</b> 20:3,7	2:6,16 3:3 5:6
22:9 23:22	<b>opportunities</b>	<b>owners</b> 82:22	21:6	5:13,17,19
25:22 31:4,17	33:13	<b>owns</b> 18:15	<b>partner's</b> 20:4	131:8 135:8
34:3,22 38:12	<b>opportunity</b>		<b>party</b> 42:3 52:3	<b>Petitioner's</b> 4:9
45:8 46:9	21:25 33:14	<b>P</b>	<b>pass</b> 75:14,25	7:3,7,18,19
47:13 48:21	<b>opposing</b> 128:7	<b>p.m</b> 137:19	84:13	12:9,10 15:15
50:15 51:17	128:13 129:20	<b>page</b> 4:2 11:16	<b>passed</b> 76:16	26:1 30:16
54:1 57:16	130:9,24	12:22 13:6,7	77:21	56:14 69:3,5
58:2 59:15	132:13	15:3 22:20	<b>passion</b> 45:15,18	80:15,16
60:1,6,15 61:8	<b>option</b> 135:2	26:4,5,8,14,21	<b>PATENT</b> 1:2	<b>Pfeiffer</b> 3:4 4:3
61:22 65:11	<b>Orange</b> 2:20 3:6	29:9,11 30:19	2:1	5:10,16 6:2 7:9
67:17 68:4,10	5:2 137:2	30:24 56:5,17	<b>PC</b> 3:4	7:21 8:11 12:3
69:2,22 71:7	<b>order</b> 26:8 31:1	56:18,20,23	<b>penalty</b> 138:1,5	12:6,7,12
71:20 72:11	75:25 85:22	57:1,3,16	<b>pending</b> 5:12	13:21 15:11,17
75:3,10,21,24	86:3 130:2	58:23 59:18	<b>people</b> 88:19	17:5,17,21,22
76:2 78:14,18	<b>ordered</b> 21:13	60:4,12 63:11	89:1,11,12	18:7 19:2,9
79:15 82:14	<b>orders</b> 21:4	67:17 70:3,10	<b>percent</b> 26:17	20:12 21:18
85:12,16,24	<b>original</b> 128:18	70:16,20 71:6	31:7	24:23 25:17
87:8 91:6	128:21 137:6	71:17,17,20	<b>perception</b>	26:3 27:8,13
132:9 134:2	<b>originally</b> 73:25	72:1,15,19,25	86:25	27:20 28:3,14
135:7,25	82:21	73:1 81:8,12	<b>period</b> 67:10,11	29:10 30:1,18
<b>old</b> 26:25 27:2	<b>originate</b> 89:14	81:18,21 82:1	67:11	31:16,24 34:6
47:2 51:23,25	<b>originated</b> 20:24	82:3,8,11,16	<b>periods</b> 68:1	34:8,9,22 35:1
68:2,11 72:25	89:4 128:16	131:3	<b>perjury</b> 138:1,5	49:18,22 50:9
73:1 79:23	134:10	<b>pages</b> 63:11 68:2	<b>person</b> 20:6	51:1,9 52:10
87:11,22 133:7	<b>originating</b>	70:4 81:18	25:11 32:15	53:3,18 54:11
<b>older</b> 79:23	71:22	128:24 131:14	40:25 42:12	55:1,7 56:2,16
<b>once</b> 50:16,20	<b>ounce</b> 26:18	<b>paper</b> 64:6	43:18,21 68:8	58:1 59:10,24
<b>ones</b> 11:7 29:21	<b>outside</b> 20:11	<b>paragraph</b> 8:24	79:8,10 84:12	60:2 61:21
78:15	21:15 25:14	10:3 11:15	89:19	62:20 65:2,20
<b>ongoing</b> 7:3	27:10 34:21	22:19 23:6	<b>person's</b> 20:9	66:1,9,15
<b>online</b> 14:17,19	38:13 40:12	36:12 40:21	<b>personal</b> 6:17	67:14 68:17,22
14:20 19:20,21	45:23 46:12	44:22 54:3	19:14 22:3	69:2,7,11 70:9
44:8,10 53:7	52:6 53:17	56:5 61:3 62:4	34:21 37:3	70:19,25 71:9
53:12 57:6,7	57:24 60:22	67:17 72:12	57:24 58:24	71:11,14,16
60:25 70:5,13	61:16 75:16	82:18 88:5	76:25 82:18	72:2,3 73:7,14
87:8 89:2	76:13 77:24	<b>paragraphs</b>	83:3,5,14	73:20,22 74:20
131:3	79:5,17 80:1	82:16	<b>personally</b> 56:22	75:6,8,11,20
<b>open</b> 32:20 40:4	80:12 84:16	<b>parse</b> 23:12 83:8	58:3,9,18	76:7,18,22

77:3,6,7 78:2	31:6 37:9,17	<b>previously</b> 9:22	74:7	<b>quickly</b> 13:22
78:13,17 79:7	40:18 48:11	10:4 15:9	<b>prominently</b>	15:10
79:21 80:5,14	54:2 56:5,18	22:18 56:6,7	56:8 62:6,10	<b>quite</b> 83:21
80:18 81:15,16	67:18 69:23,23	57:20 66:23	63:4,7	<b>quote</b> 26:21
83:20 84:1,10	87:3	68:3,24 69:10	<b>promote</b> 22:2	32:20 56:5
84:22,23 86:7	<b>point</b> 10:10	76:21 77:2	44:7 58:16	57:20 62:5
87:23 88:9,12	31:11 43:18	85:14	59:13 60:9	67:18 73:18
88:24 90:1,10	84:12 88:1	<b>principal</b> 15:4	74:24 81:6	82:15 85:6
90:16,22 91:1	<b>pointed</b> 63:22	<b>printed</b> 26:16	<b>promoted</b> 36:20	88:9 134:11,19
91:5,8 128:8	<b>pointing</b> 88:8	64:16	<b>promoting</b> 73:13	135:10
131:20 132:16	<b>poll</b> 87:24	<b>prior</b> 10:24 16:9	<b>promotion</b> 10:17	<b>quote/unquote</b>
132:21,23	<b>polls</b> 135:25	17:10 18:3	58:21 134:21	13:3
133:13,17	<b>portion</b> 83:5,6	19:11,14 57:11	<b>promotions</b> 9:16	
134:1,7,18,24	91:7,10 128:1	57:13 66:4	<b>propose</b> 136:10	<b>R</b>
135:18,24	<b>position</b> 9:4,22	68:1 79:16,25	<b>propounded</b>	<b>ran</b> 36:6
136:7,9,14	11:9 79:15,20	82:22 83:11	135:14	<b>ranging</b> 70:5,14
<b>photograph</b>	<b>possession</b> 76:11	128:22 135:14	<b>provide</b> 16:12	<b>reach</b> 65:6
43:24	<b>possibly</b> 35:18	<b>privilege</b> 8:10	64:17 85:11	<b>read</b> 8:18 11:19
<b>Photographs</b>	87:14	29:8,23 36:5,8	86:3	15:7 26:15
4:11	<b>post</b> 134:16	51:8 75:18	<b>provided</b> 16:15	31:5 37:12,14
<b>phrase</b> 13:1 15:4	<b>posts</b> 87:14,20	76:15 78:1	41:18	39:13,14 42:7
58:19 63:10	131:8,10,12	<b>privileged</b> 84:6	<b>pulled</b> 70:12	47:16 48:10,12
133:18	<b>potentially</b>	<b>probably</b> 28:2	<b>purchase</b> 128:22	56:9 65:14
<b>phrasing</b> 59:16	129:10	43:19 52:13	<b>purchased</b>	67:21 82:22
<b>pick</b> 71:17 72:8	<b>PowerPoint</b> 4:12	80:3 87:20	128:19	89:2 138:5
<b>picture</b> 15:23,23	<b>predecessor</b>	<b>proceeding</b> 5:13	<b>purposes</b> 19:3	<b>reading</b> 23:13
<b>pictured</b> 128:14	40:9	9:2 46:5 57:11	137:3	66:2
<b>pictures</b> 15:18	<b>predecessors</b>	57:14 68:25	<b>push</b> 47:9	<b>reads</b> 11:16
15:24 16:3,5,7	36:14 41:11,21	75:13,15 76:5	<b>put</b> 43:2 49:25	22:20 41:9
16:10,12 47:2	<b>preparation</b>	77:16 84:2,20	90:17	44:22
<b>piece</b> 48:23	71:21	85:8 139:9,12		<b>really</b> 6:10 41:1
58:24 62:16,24	<b>preparing</b> 57:14	<b>proceedings</b>	<b>Q</b>	<b>reason</b> 14:12
63:1 64:6 66:3	<b>presence</b> 44:9,10	137:7,10	<b>question</b> 18:5	64:5,12 67:2
66:10,16	<b>present</b> 8:12	139:15	24:3 34:24	69:18
<b>place</b> 43:18	46:20 47:21	<b>produce</b> 77:16	37:11 39:12	<b>recall</b> 38:2 41:5
63:12,17 72:21	48:4,16,24	87:17 137:6	40:22 41:18	50:22
81:18 87:8	49:7 55:3	<b>produced</b> 19:23	47:15 48:9,21	<b>receipt</b> 137:15
139:10	89:24	19:24,25 20:8	55:18 78:11	<b>receiving</b> 136:11
<b>placed</b> 134:15	<b>Presentation</b>	32:7 75:4 84:3	84:8 133:24	<b>Recess</b> 12:5 34:7
<b>Planet</b> 4:13	4:12,13	84:9,16,20	<b>questioning</b> 52:6	68:21
<b>plans</b> 33:5 55:10	<b>presentations</b>	135:10 137:13	<b>questions</b> 6:17	<b>recognize</b> 26:5,6
55:15	43:16	<b>product</b> 129:4,5	44:21 49:17	63:23
<b>please</b> 11:2,15	<b>presently</b> 14:25	130:2	69:25 70:15	<b>recognized</b>
12:13,22 15:19	<b>preshrunk</b> 26:18	<b>products</b> 38:4,5	71:12 72:10	134:6
22:1,19 26:4	<b>president</b> 8:25	41:24,25 45:14	77:8 128:5	<b>recollection</b>
26:14,16 29:4	9:5,14	45:19,20 48:19	<b>quick</b> 6:10 68:16	35:13,16,19
29:4 30:19	<b>press</b> 42:25	57:17 73:12	68:19	36:5 38:21,25

43:8 87:18	85:8	2:9 3:9 9:1	137:13	80:23
<b>record</b> 12:2,3	<b>released</b> 136:25	69:4	<b>right</b> 8:24 10:10	<b>screen-printed</b>
34:8 37:14	<b>relevance</b> 27:5	<b>Respondent's</b>	17:21 27:6	26:20 31:9
39:14 41:12	<b>reliance</b> 4:17,21	4:17,21	34:23 48:23	<b>Screenshot</b> 4:19
47:16 48:12	69:4,12,14	<b>response</b> 77:17	51:10 55:16	4:20
69:1 81:10,14	<b>relieved</b> 136:23	135:7	68:15 73:17	<b>Screenshots</b>
136:21,22	<b>relying</b> 18:19	<b>responses</b> 6:11	82:6 84:22	4:22
<b>recorded</b> 139:12	<b>remember</b> 12:21	<b>responsibility</b>	128:9 130:12	<b>scrolling</b> 81:12
<b>recount</b> 49:9	22:5,12 35:12	10:16	<b>Rose</b> 3:5 5:18	<b>se</b> 133:20
<b>recross</b> 132:17	35:21 37:20,21	<b>responsible</b>	54:2	<b>sealed</b> 91:11
<b>redacted</b> 137:10	42:21 51:11,14	24:11	<b>roughly</b> 22:16	<b>second</b> 43:24
<b>redirect</b> 132:16	51:16,24 52:3	<b>responsive</b> 76:11	<b>rule</b> 132:7	63:12
<b>refer</b> 63:4 69:8	57:3,9 58:17	<b>restaurant</b> 5:15	<b>rules</b> 6:10 19:1	<b>secondary</b> 132:6
73:17 82:15	130:14	36:15 39:6,10	<b>run</b> 25:10	<b>secret</b> 82:15 85:6
<b>reference</b> 6:25	<b>repeat</b> 37:11	39:17,23 40:10		85:12 86:21
48:23 82:16	39:11 47:15	41:22 44:2,3,6	<b>S</b>	87:6 88:10
<b>referenced</b>	70:8 84:8	54:6,16,21	<b>s</b> 4:8,15 7:3,7	130:21 131:1
56:21	<b>rephrase</b> 75:9	55:21,24 56:8	69:4	131:12,20,23
<b>references</b> 65:17	76:8	61:24 65:17	<b>sake</b> 7:5 69:24	133:19 134:3
66:24	<b>replaced</b> 20:15	66:12,18 67:21	81:17	134:11 135:3
<b>referencing</b>	20:17	73:4 78:8 88:2	<b>sale</b> 32:3	135:10 136:3
63:24 88:11	<b>report</b> 9:18	130:5	<b>sales</b> 11:13 14:17	<b>section</b> 38:24
<b>referring</b> 63:13	<b>Reported</b> 1:22	<b>restaurants</b>	18:23 32:16	39:1 48:2,18
63:21 71:25	<b>reporter</b> 2:17	14:23 37:25	<b>Sam</b> 7:3	49:6 72:20
72:16,17 85:13	5:7 13:25	43:16 48:19	<b>saw</b> 21:25 28:1	78:6 80:25
87:5 88:6	37:15 39:15	55:4,11 63:23	57:3,9,13	81:4,20
<b>refers</b> 26:21,24	47:17 48:13	63:24 64:2,16	58:12 69:17	<b>see</b> 6:16 13:2,10
88:9	136:23 139:3,7	65:13,22 66:24	76:21 77:1	13:12 29:13
<b>reflect</b> 136:1	<b>represent</b> 12:23	72:15 74:1,5	<b>saying</b> 23:19	31:1 34:10
<b>reflected</b> 14:13	81:22 82:2	82:21 87:9	36:18,19 42:11	52:17 67:10
<b>reflects</b> 70:4,12	<b>representation</b>	88:15 128:17	86:22 88:14	70:25 75:7
<b>refresh</b> 76:3	26:10 28:12	131:4 134:15	<b>says</b> 29:12 31:4	77:3 81:21
<b>Reg</b> 1:8 2:7	30:25 81:1	<b>restock</b> 21:20,20	31:11 63:22	<b>seeing</b> 37:21
<b>regard</b> 5:14	<b>represents</b> 8:21	<b>resume</b> 55:11	88:2	58:17 130:14
<b>regarding</b> 38:19	13:15 82:2	<b>resumed</b> 128:2	<b>scope</b> 20:11	<b>seen</b> 7:10,12,22
<b>register</b> 15:4	<b>request</b> 85:23	<b>retail</b> 14:23	21:15 25:14	12:14,19 16:5
<b>registered</b> 5:14	91:12	<b>retrieve</b> 61:2	27:10 34:21	16:7,9,25 24:5
<b>registration</b>	<b>requests</b> 76:12	<b>retrieved</b> 61:8	45:24 52:7	24:7,7 26:22
12:18,24 13:2	77:17 135:7,14	61:11	60:22 61:16	28:16 30:20
13:10,15 14:5	<b>resolution</b> 52:23	<b>retroactively</b>	75:16 76:13	32:4 34:15,16
14:13 18:15	<b>resources</b> 60:25	133:14	77:25 79:5,17	50:13 56:18
23:1 30:6	130:25 132:4	<b>review</b> 129:20	80:1,12 84:17	57:1,5 58:13
32:19 33:19	132:11	130:25 131:25	90:6,13,19	60:12 62:1
34:1	<b>respect</b> 44:10	132:11 137:3	136:4	68:2,11 69:13
<b>related</b> 58:12,13	45:2 46:19	137:15	<b>screen</b> 26:8	69:19 71:17,20
<b>relation</b> 13:16	47:20	<b>reviewed</b> 131:2	30:23 70:23	72:5 74:10,25
62:15,23 75:15	<b>respondent</b> 1:10	131:7 132:4	72:1,2,5,25	74:25 77:13,14

80:20 89:10,13 130:10 132:1 <b>sell</b> 14:25 17:13 18:9,12 19:18 29:20 30:2 32:24 33:6,22 35:23 41:25 86:12 130:2 132:25 133:1,6 <b>selling</b> 17:6 18:1 18:16 21:23 22:10 23:3,24 24:11,13 34:13 35:3 45:5 50:10 51:6,13 53:21 73:24 133:6,8,11 <b>sells</b> 17:23 24:4 24:7 30:10 <b>Senger</b> 20:14,15 <b>senior</b> 10:4,13 10:18 <b>sent</b> 50:14 52:15 52:20 <b>sentence</b> 11:16 22:20 23:6 43:24 44:22 <b>separately</b> 91:11 <b>September</b> 13:11 14:7,17 23:4,25 45:1 <b>served</b> 10:4 <b>services</b> 5:15 36:16 40:10 41:22 44:4 56:8 61:24 67:21 73:4 78:9 130:5 <b>set</b> 7:14,16 139:10 <b>setting</b> 6:7 <b>seven</b> 81:18 <b>shake</b> 6:12 <b>shakes</b> 7:13 <b>shape</b> 31:8 36:24 37:9,18 47:22 <b>shipped</b> 21:12	<b>shirt</b> 26:12 28:8 30:3 128:8,15 <b>shirts</b> 13:4 17:7 19:18,23 20:19 20:24 21:5 28:20 29:6,12 29:16,20 30:5 30:10 32:21 132:22 133:1,2 133:3,7,8,11 <b>SHOHL</b> 3:10 <b>shops</b> 14:23 <b>short</b> 34:5 <b>Shorthand</b> 2:17 5:7 139:3,7 <b>shot</b> 26:8 30:23 70:24 72:1,2,5 72:25 78:5 <b>shoulder</b> 6:12 <b>showed</b> 69:18 <b>shown</b> 16:19 19:19 32:3 34:11 81:19 88:6 128:6 <b>shrug</b> 6:12 <b>side</b> 52:4 <b>sidebar</b> 81:12 <b>Similar</b> 10:15 <b>single</b> 70:16 <b>sit</b> 23:22 37:3 58:4 60:3 82:25 <b>site</b> 21:4 24:9 25:3,7 38:15 38:19 47:23,23 48:1,18,22 49:6,24 65:6 67:20 72:14,15 72:21 73:2,19 78:6,9,11 79:2 79:9,23 80:6 81:11,22 82:11 130:4 132:1 <b>sites</b> 25:10 68:11 131:3,13 <b>six-panel</b> 31:8 <b>size</b> 15:6	<b>sizes</b> 31:10 <b>sleeve</b> 26:19 <b>Slides</b> 4:12 <b>small</b> 63:13 65:16 <b>snapshot</b> 72:25 <b>social</b> 87:14 131:13 134:16 <b>sold</b> 14:6,22 16:23 18:10,11 19:10,15 20:19 25:2 28:15,20 32:11 33:2 34:17 37:25 48:19 50:4 51:17 53:5,7,9 57:18 82:21 133:3 <b>solely</b> 47:11 89:22 <b>somebody</b> 27:23 51:5,13,15 52:19 53:12,20 <b>sorry</b> 11:24 13:8 15:11 23:11 27:25 32:8 33:12 35:5 39:11 44:11 75:8 76:9 77:8 78:3 79:10 131:23 132:17 <b>sought</b> 136:1 <b>source</b> 24:17,18 <b>sources</b> 43:2 <b>speak</b> 43:14 58:9 69:25 84:18 132:7 <b>speaking</b> 19:5 <b>spearheaded</b> 134:2,10 <b>special</b> 85:22 <b>specific</b> 17:20 42:12,22 43:21 43:21 46:5 68:8 71:25 129:15 135:13 <b>specifically</b>	36:11 38:2,4 41:6 55:9 65:4 86:2 87:12 90:18 <b>speculate</b> 51:2 <b>speculation</b> 17:3 27:18 28:10 40:23 50:7,25 57:24 64:9,14 66:6,14 67:5 73:10 74:18 79:4 84:6 86:6 87:19 134:13 <b>splitting</b> 47:10 <b>spoke</b> 44:11 <b>St</b> 21:2 28:25 <b>stand</b> 46:8,10 <b>standard</b> 15:5 <b>start</b> 21:23 <b>started</b> 6:6 80:10 <b>state</b> 2:18 6:3 18:20,22 39:1 40:7 50:3 55:2 83:3,4 135:2,4 138:11 139:8 <b>stated</b> 33:25 <b>statement</b> 14:5 23:12,23 36:16 36:17 40:20 41:9,15,23 42:7 44:4 65:16 66:2 130:13 <b>statements</b> 8:4 46:1,1 <b>states</b> 1:2 2:1 8:25 10:3 13:11 14:7 15:4 36:12 43:24 55:4,11 56:5 64:1 65:12 66:11,17 <b>stating</b> 31:25 41:16 <b>stenographica...</b> 139:13 <b>Stephanie</b> 1:23	2:17 12:1 139:21 <b>stick</b> 63:5 <b>stipulate</b> 70:1 71:4,14 <b>stipulated</b> 136:14,15 137:16 <b>stipulating</b> 71:7 137:12 <b>stipulation</b> 136:11,18,22 <b>stock</b> 21:12,16 86:2 <b>stopped</b> 43:25 44:2 54:5 <b>store</b> 19:20 128:12 <b>stores</b> 14:18 73:19 <b>Street</b> 3:11 <b>strike</b> 91:3 130:8 <b>stuff</b> 49:24 56:3 83:21 <b>stumbled</b> 51:14 <b>style</b> 16:24 <b>stylization</b> 129:1 <b>submitted</b> 68:24 <b>subscribed</b> 139:16 <b>substance</b> 70:2 72:9 <b>substantively</b> 70:11 <b>Suite</b> 2:20 3:6,11 137:2 <b>Super</b> 90:22 <b>supplied</b> 56:23 <b>supply</b> 56:20 <b>suppose</b> 28:11 <b>sure</b> 5:18 15:12 16:18 17:1 20:1 22:15 27:1,12,19,22 34:6,6 36:1 38:24 42:5 46:22,23 47:14
---	---	---	---	--

49:3,5 51:14	30:10 31:12,19	79:2	<b>ten</b> 27:7	<b>things</b> 44:7
52:13 54:3	32:24 33:22	<b>take</b> 12:13 13:25	<b>tenured</b> 43:20	45:14,16 46:15
55:13 56:24	34:12,17 36:14	15:18,24 22:8	<b>term</b> 26:24	57:5 64:16
57:12 61:6	36:20,25 37:10	68:16,19 70:7	27:16,21 38:11	89:2,2 128:13
62:11,13 63:16	37:19,23,25	70:25 80:19	62:10	<b>think</b> 7:11,15
64:10,15 65:7	38:17 39:2,4,7	86:9 128:6	<b>terms</b> 41:1 88:14	9:8 17:15
65:25 67:6,16	39:10,18 40:1	<b>taken</b> 2:16 6:8	<b>test</b> 43:2,9	18:19,24 22:16
68:8,20 79:6	40:9 41:2,11	16:3 71:5	<b>testified</b> 5:8 25:1	31:21 42:9,19
86:4 89:5	41:12,20 42:1	139:9	35:3,22 64:1	44:25 45:13,23
133:13	42:8 43:25	<b>talk</b> 20:7 49:25	65:21 66:23	47:10 48:5
<b>swore</b> 62:21	44:16,19,23	<b>talked</b> 38:15	72:12 84:15	49:12 50:20
<b>sworn</b> 5:6 54:4	49:9 50:3,12	44:8 84:11	134:19	51:19 61:10
<hr/>				
<b>T</b>	52:12 53:13,20	130:23	<b>testifies</b> 57:19	63:1,6 70:22
<b>T</b> 4:8,16 7:18,19	54:5,17 55:3,8	<b>talking</b> 13:24	<b>testify</b> 67:18	70:23 71:5,6,7
22:19 36:11	55:10 56:7	47:1 49:24	82:18 132:24	71:9 73:3
<b>T-shirt</b> 4:11,19	57:18,20,21	57:17 58:19	133:19	84:11,15,17,18
15:23 16:19	58:15,25 59:16	86:25	<b>testifying</b> 58:3	85:2 129:19,20
26:9,18 28:15	59:22 60:13	<b>talks</b> 63:2 132:2	68:13	132:15 133:3
28:16,17 30:11	61:23 63:22	<b>Tammy</b> 25:21	<b>testimony</b> 4:16	134:13 135:13
34:10,15 51:19	65:13 66:10,16	79:11,16,25	5:11 7:25 8:21	135:14,16
51:20 52:1	66:21 67:19,20	<b>Tammy's</b> 79:12	11:21 17:16	136:9
53:4,11	68:2 69:4,10	79:15	19:13 22:25	<b>third</b> 44:21
<b>T-shirts</b> 13:4	72:13,14,15,21	<b>Tang</b> 5:20,20	23:24 30:7	<b>third-party</b> 32:8
29:6,13,16	73:3 74:15	8:15 66:13	31:22 36:23	<b>thought</b> 17:19
30:5 32:21	77:2,10,11,15	70:8,17,21	42:10 43:1	35:5
35:23	78:7 80:7	71:10 136:16	45:4,24 48:6	<b>three</b> 9:8 15:12
<b>T.O.P</b> 21:10,11	82:11,20 83:11	<b>tapping</b> 130:1	49:1 53:17	35:20 79:14,14
25:23 28:23	83:12,15 84:3	<b>target</b> 90:11	54:4,12,13	79:23 87:20
32:9,14	85:15,17 86:2	<b>targeted</b> 90:18	59:9,12 61:11	<b>time</b> 11:10 19:11
<b>tab</b> 80:24 81:7	86:17 87:4,9	<b>targets</b> 90:23	62:4,9,14 63:6	32:18 34:4
<b>table</b> 6:22,23,24	87:10,15 88:19	<b>teach</b> 43:17	82:23,25 86:21	38:22 39:6
<b>taco</b> 1:9 2:8 4:10	88:20 89:4,7	<b>team</b> 55:20	130:9 133:22	41:13 42:22
5:14,20,21,23	89:10,12,13,14	56:25 75:23	134:13,23	43:18,22 53:19
7:4 9:1,17 10:5	128:12,19,22	76:9	135:16,17	54:17 57:22
10:17,22,25	130:1,4,5,19	<b>technically</b>	138:8 139:11	67:11 68:1
11:3,4,14,17	131:11,24	18:20 80:4	<b>testimony's</b>	71:1 72:4 73:5
13:3,15 14:5,9	132:2,5,12	<b>teenagers</b> 90:24	18:24	73:8 74:14
14:22,25 16:23	134:2,10	<b>teens</b> 90:18	<b>text</b> 38:18 49:11	86:14 137:14
17:6,10,23	135:25	<b>tell</b> 11:2 36:17	71:7	139:10,12
18:1,15 19:14	<b>Taco's</b> 5:14 9:11	37:9,17 40:19	<b>thank</b> 12:2 14:2	<b>title</b> 11:6,8
19:18 21:4,22	15:10 23:1	43:8 51:2	19:8 60:15	<b>today</b> 5:12 6:17
22:3,4,21 23:3	25:2 32:2,19	55:10 57:21	76:19 77:4,6	8:13 11:21
23:7,24 24:4	36:15 40:10	58:23 59:1,19	77:20 85:12	19:13 23:22
24:10,11,16	41:21 46:19	60:3 61:9	<b>thereof</b> 139:15	37:3 42:1 43:3
25:7,16,18	47:20 56:12	62:24 68:4	<b>they'd</b> 86:8	49:10 54:4,13
28:8 29:5	68:25 69:9	134:25	<b>thing</b> 38:7	58:5 60:3 62:9
	73:17 78:6	<b>telling</b> 74:3	133:20	63:6 81:1,21



83:1	<b>turned</b> 53:23	<b>units</b> 28:19	128:11	65:6 67:20
<b>told</b> 41:5,6 43:3	<b>Turning</b> 8:24	32:10	<b>Wait</b> 13:19	68:2,11 72:1
58:11 62:25	22:18 56:4	<b>unstructured</b>	<b>want</b> 6:19 43:8	72:14,15,21
64:6 68:10	<b>TV</b> 58:17	31:8	46:21,23 49:16	73:2,19 78:5,6
79:8	<b>twill</b> 31:8	<b>upcoming</b> 69:24	49:24,25 54:3	78:9,11 79:2,9
<b>Tom</b> 7:18	<b>Twitter</b> 131:7	<b>updated</b> 38:23	59:24 62:14,21	79:9,23 80:6
<b>trademark</b> 1:2,3	<b>two</b> 22:5 25:10	<b>URL</b> 78:18	62:22 63:16	81:11,22 82:11
2:1,2 5:15	34:12,16 35:17	<b>USA</b> 21:10,11	66:19 68:16,19	128:12 130:4
12:17,24 13:10	35:20 36:19	25:23 28:23	70:1,6 71:11	131:3,13 132:1
18:14,21 19:1	37:22 38:16	32:9,14	72:4 75:12	<b>went</b> 31:1
23:1 32:19	41:3 44:20	<b>use</b> 13:11 18:23	76:20 82:14	<b>weren't</b> 65:8
33:19 34:13,18	47:7 58:16,18	19:4 37:4	83:8 84:14,19	<b>western</b> 11:14
44:1 46:5 47:6	58:21 59:14	39:10,17 62:10	85:4 135:3	<b>whatnot</b> 18:4
54:5 74:16	60:10 63:2,11	64:16 78:8	<b>wanted</b> 15:12	<b>whereof</b> 139:16
133:7,10	66:21 67:13	129:14,21	18:25 30:9	<b>witness</b> 5:5,22
<b>trademarks</b> 46:6	74:24 75:2	130:4	47:14 81:14	7:13 11:24
47:8	82:3 86:10,14	<b>uses</b> 13:3	<b>washed</b> 31:7	17:4 19:6
<b>transcribed</b>	87:7,20	<b>utilizes</b> 73:3	<b>wasn't</b> 53:12	21:16 25:16
139:13	<b>types</b> 47:7		<b>watch</b> 68:17	27:6,12,19
<b>transcript</b> 6:15		<b>V</b>	<b>way</b> 14:14 17:25	28:2,12 29:9
91:10 128:2	<b>U</b>	<b>V</b> 4:19 25:25	23:10,12 36:24	29:24 31:15
136:25 137:9	<b>U</b> 4:17 12:9,10	26:1 28:15	37:9,18 47:22	34:23 36:9
137:13 138:6	23:2 29:3	34:11,15 128:8	63:6,7 66:22	37:20 39:22
139:14	30:11 32:19	128:11	78:7 81:11	40:4,24 42:11
<b>transition</b> 67:10	<b>U.S</b> 19:25 50:4	<b>various</b> 70:13	135:6	42:21 43:14
67:10	<b>Uh-huh</b> 10:2	<b>vendor</b> 20:3,4,7	<b>Wayback</b> 70:3	45:5,12 46:14
<b>transitioned</b>	11:22 41:17	20:20 21:1,6,9	70:11 71:5	47:15,22 48:17
44:5	77:12	32:8	<b>ways</b> 22:2	49:2 50:8 52:9
<b>translate</b> 6:13	<b>uh-huhs</b> 6:14	<b>verbal</b> 6:11	<b>we'll</b> 19:6 47:5	53:2 54:24
<b>treading</b> 83:20	<b>underlies</b> 47:8	<b>verbiage</b> 27:9	72:10 90:21	55:6,24 57:25
<b>trial</b> 1:3 2:2	<b>underneath</b> 31:5	28:5 31:5 85:7	137:8	60:24 61:6,12
53:16 71:21	72:1	<b>verify</b> 59:20	<b>we're</b> 5:11 7:5	61:18 64:10,15
135:16	<b>undersigned</b>	<b>vice</b> 9:5,14	33:11,13 36:18	64:23 65:19,25
<b>true</b> 14:4 23:2	139:7	<b>view</b> 62:16	47:9,10 56:3	66:7 67:1,6,9
41:16 54:15,20	<b>understand</b>	<b>vintage</b> 26:20,21	63:16 78:4	68:20 73:11,21
138:9 139:14	13:14 18:14	26:24 27:3,17	80:15 86:25	75:19 76:6,16
<b>try</b> 14:1 50:13	42:24 46:4	31:9 129:14,22	136:9 137:12	77:1,23 78:15
70:1 85:21	47:25 59:15	<b>Viva</b> 4:10,10	<b>we've</b> 29:21 45:5	79:6,19 80:3
86:8	62:14,23 86:22	58:15 59:16,16	48:19 49:2	84:8 87:19
<b>trying</b> 17:23	133:23	63:10	72:8 73:2,12	88:23 89:18,25
43:9 46:2 47:9	<b>understanding</b>	<b>VP</b> 5:22 10:11	78:16 86:11,15	90:8,15,23
59:19 68:5	36:22 53:14	55:9 90:2	136:22	129:25 133:11
70:9 83:21	<b>understands</b>	<b>vs</b> 1:8 2:7	<b>web</b> 21:4 24:9	133:23 134:5
86:20 133:5	47:4		25:3,7,10	134:14 135:22
<b>turn</b> 11:15 12:22	<b>understood</b> 43:9	<b>W</b>	38:15,18 47:23	136:6 137:4,14
32:18 67:17	<b>United</b> 1:2 2:1	<b>W</b> 4:20 30:15,16	47:23 48:1,18	139:16
69:22 82:14	14:7 55:4,11	32:4 34:11,16	48:22 49:6,23	<b>wondering</b>

76:23,24 77:5	81:9 83:23	<b>1988</b> 36:15,21,23	<b>24</b> 1:17 2:19 5:1	<b>69</b> 4:21
<b>word</b> 13:10 15:1	86:24 87:2,25	40:9 41:11,14	<b>25</b> 13:2,5 29:11	<hr/> <b>7</b> <hr/>
16:20,24 17:24	91:5 133:23	41:21 82:20	29:13 32:22	74:15,16 82:16
18:2 21:24	<b>year</b> 35:14 38:23	<b>1995</b> 11:17 22:21	55:2	<b>70s</b> 49:10
24:17 25:2	61:9 135:15	23:8 44:2,17	<b>255</b> 3:11	<b>714</b> 3:7
26:15 28:1	<b>yearly</b> 43:15	44:23 54:6,16	<b>25th</b> 44:2,17	<hr/> <b>8</b> <hr/>
29:20 46:23	<b>years</b> 9:8 11:10	54:20 55:3	54:6,16,20	<b>80</b> 4:22
47:8 51:22	27:7 35:17,20	64:3,7 65:22	64:3,7 65:22	<b>800</b> 84:20 131:4
63:12 128:25	61:15 64:17	66:4 67:4	66:4 67:4	<b>80s</b> 39:3 49:10
128:25 129:14	75:1,1 79:14	74:15 78:9	<b>26</b> 4:19	81:7 86:10
<b>words</b> 62:15,22	79:23 87:21	130:12	<b>28</b> 68:25 69:8,9	<hr/> <b>9</b> <hr/>
62:23 70:15	<b>yeses</b> 6:14	<hr/> <b>2</b> <hr/>	<b>288-2826</b> 3:7	<b>9:34</b> 2:19 5:1
129:21,23	<b>younger</b> 90:11	<b>2</b> 7:4 11:15	<b>29</b> 4:11 15:10,15	<b>90s</b> 49:10
<b>work</b> 9:9 11:4,13	<hr/> <b>Z</b> <hr/>	22:19 23:6	15:22 16:20	<b>92053501</b> 1:9 2:8
20:3 36:2	<b>Ziebarth</b> 1:6 2:5	36:12 40:21	19:19 24:5,8	<b>92865</b> 3:6 137:3
40:15,19 72:8	5:13 35:11	54:3 67:17	28:16 32:4	<b>93</b> 4:12
<b>worked</b> 11:5	135:8 136:19	82:16	<hr/> <b>3</b> <hr/>	<b>95</b> 88:16
43:20 50:17	<hr/> <b>0</b> <hr/>	<b>20</b> 138:10	<b>3</b> 7:4 12:22 13:7	<b>977-8527</b> 3:12
51:15 60:11	<hr/> <b>1</b> <hr/>	<b>2003</b> 70:6,14	15:3 29:11	
77:2 84:15	<b>1</b> 7:4 40:21 56:5	<b>2004</b> 11:5	56:5 61:3 62:4	
89:9	<b>1,043,729</b> 1:8 2:7	<b>2006</b> 70:6,14	70:18	
<b>working</b> 10:21	<b>1/14/14</b> 4:18	<b>2009</b> 10:9,24	<b>30</b> 4:12,20	
10:25 14:9	<b>1/16/14</b> 4:21	11:5 37:1,5,8	137:15	
17:9 36:25	<b>100</b> 26:17 31:7	37:17 38:12,14	<b>31</b> 4:13	
37:8,16 40:1	<b>109</b> 4:13	39:9,16,25,25	<b>35</b> 4:4	
40:11 62:2	<b>11</b> 4:10 56:6,13	41:13,14 46:20	<hr/> <b>4</b> <hr/>	
68:1,7 74:11	56:14 61:4,22	47:21 50:18,24	<b>4</b> 29:12 67:17	
91:2	63:10 65:3,12	55:18 60:11	72:12 81:8,18	
<b>works</b> 20:21	88:6	62:2 64:21	81:21 139:17	
33:6 81:11	<b>1122</b> 2:19 3:6	73:6 74:12,15	<b>45202</b> 3:12	
<b>world</b> 38:11	137:1	89:9,23 91:2	<b>49</b> 4:3	
<b>writing</b> 7:6	<b>119</b> 4:5	130:12	<hr/> <b>5</b> <hr/>	
<b>written</b> 6:13	<b>12</b> 4:17	<b>2010</b> 50:24	<b>5.3</b> 26:18	
<b>wrong</b> 35:2	<b>12:46</b> 137:19	<b>2011</b> 13:12 14:7	<b>513</b> 3:12	
<hr/> <b>X</b> <hr/>	<b>12893</b> 1:23 2:18	14:17 17:7	<b>56</b> 4:10	
<b>X</b> 4:1,8,21 69:3,5	139:21	18:2,13,17	<hr/> <b>6</b> <hr/>	
<hr/> <b>Y</b> <hr/>	<b>129</b> 4:3	19:11,14 21:23	<b>6</b> 4:3 70:18	
<b>Y</b> 4:22 80:15,16	<b>15</b> 4:11	22:16 23:4	82:16,18 88:5	
<b>yeah</b> 41:23 43:11	<b>15th</b> 13:11 14:7	24:1 28:20	<b>60</b> 4:4	
44:14 46:14	23:4,25 45:1	32:11 34:15,23	<b>60s</b> 49:10	
57:25 59:17	<b>16</b> 68:25 69:8,9	45:2,6 51:4	<b>61</b> 4:3	
66:14 67:16	71:19	<b>2014</b> 1:17 2:19	<b>63</b> 4:4	
68:17 70:21,22	<b>1900</b> 3:11	5:1 139:17	<b>65</b> 4:3	
71:10,13 73:11	<b>1980s</b> 81:7,20	<b>203</b> 2:20 3:6		
78:23 79:19		137:2		
		<b>20s</b> 90:18		

PENALTY OF PERJURY

I, NOAH CHILLINGWORTH, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this 28 day of APRIL, 2014,  
at LAKE FOREST, CA.  
(City) (State)



NOAH CHILLINGWORTH

**OUR MENU KEEPS IMPROVING.**  
**JUST SOME OF THE NEW THINGS YOU'LL NOTICE.**

## HAMBURGERS

**Hamburger** - *The traditional burger. Hamburger patty, pickles, ketchup and mustard on our custom knot bun.*

**Del Burger** - *Crisp lettuce and tomato, pickles, onions, mayonnaise, ketchup, mustard and a specially seasoned hamburger patty on our custom knot bun.*

**Double Del Burger** - *Add another hamburger patty and two slices of cheese to our Del Burger.*

## SIDE ORDERS

**Fries** - *Small/Regular - Extra thick crinkle cut french fries.*

**Chips & Dips** - *Corn tortilla chips served with your choice of salsa, guacamole, spicy cheese sauce or salsa dressing.*

**Beans & Cheese** - *A jumbo cup of refried beans topped with Monterey Jack and Cheddar cheeses.*

**Mexican Rice** - *A jumbo cup of seasoned rice.*

**Fresh Guacamole** - *Prepared daily with fresh avocados.*

**Salsa** - *Homemade with fresh tomatoes, scallions and cilantro in our special sauce.*

## BREAKFAST

*Served until 11:00 a.m.*

**Egg & Cheese Soft Taco** - *A grilled flour tortilla with an egg scrambled in real butter and Monterey Jack and Cheddar cheeses.*

**Egg & Cheese Burrito** - *A grilled flour tortilla with scrambled eggs, grated Monterey Jack and Cheddar cheeses and Mexican meat sauce.*

**Egg & Bean Burrito** - *A grilled flour tortilla with scrambled eggs, grated Monterey Jack and Cheddar cheeses, refried beans and Mexican meat sauce.*

**Beef & Egg Burrito** - *A grilled flour tortilla with scrambled eggs, grated Monterey Jack and Cheddar cheeses, seasoned ground beef and Mexican meat sauce.*

**Chicken & Egg Burrito** - *A grilled flour tortilla with marinated, grilled chicken, scrambled eggs, grated Monterey Jack and Cheddar cheeses topped with Mexican meat sauce.*

**Steak & Egg Burrito** - *A grilled flour tortilla with marinated, grilled steak, scrambled eggs, grated Monterey Jack and Cheddar cheeses topped with Mexican meat sauce.*

**FOOD WORTH FIGHTING FOR.**

VIVA  
NAUGLES  
VIVA  
DEL TACO<sup>®</sup>

These items available at Del Taco and Naugles restaurants.

EXHIBIT

PENGAD 800-631-6989

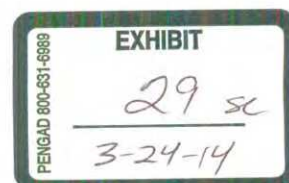
11 SC  
3-24-14

EXHIBIT

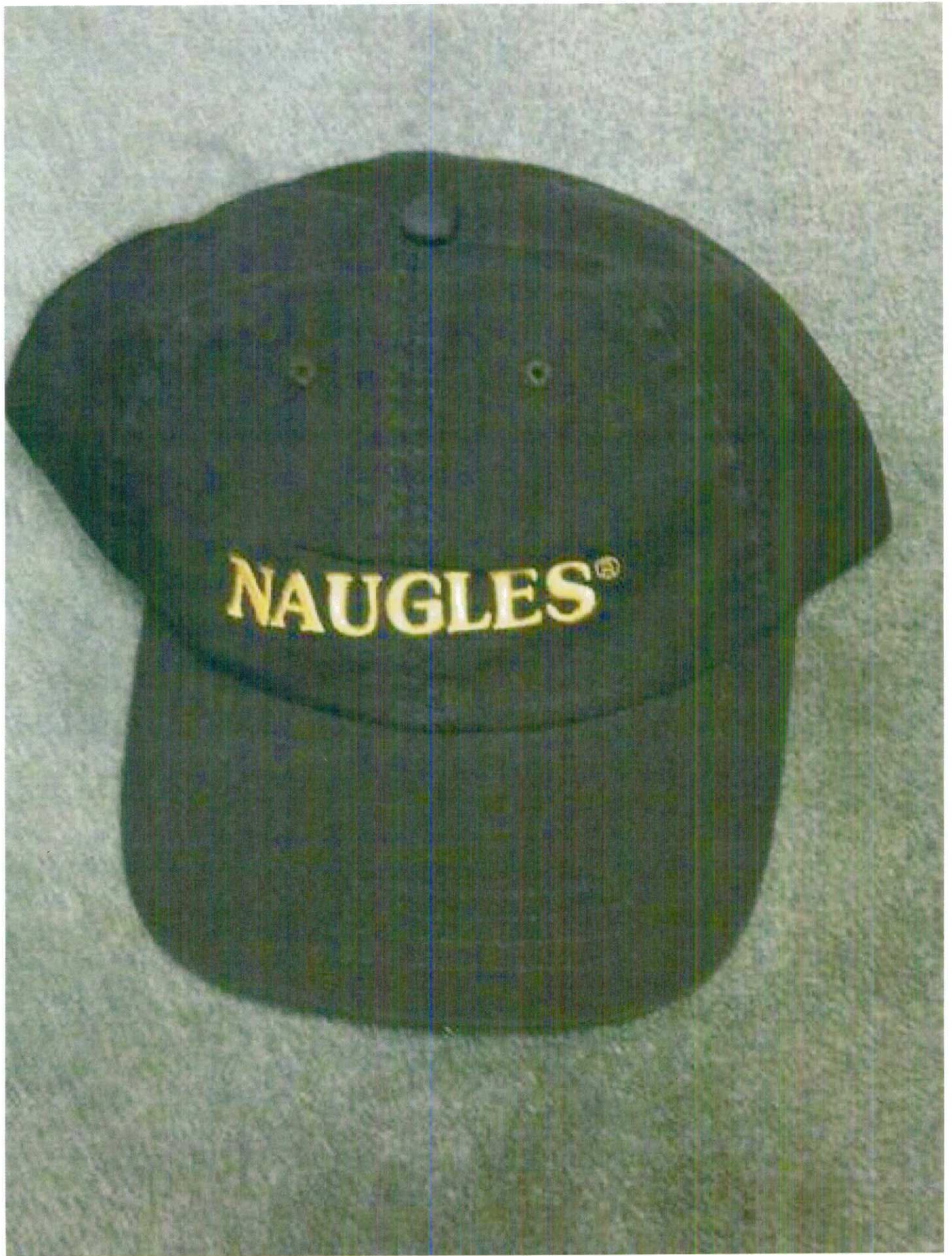
PENGAD 800-631-6989

11 SC  
10-28-13

# EXHIBIT 29











IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 1043729  
Date of Registration: July 13, 1976

---

CHRISTIAN M. ZIEBARTH  
Petitioner,

Cancellation No.: 92053501

v.

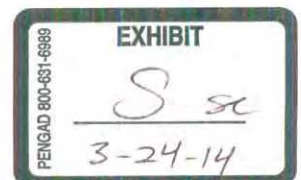
DEL TACO, LLC  
Registrant.

---

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**NOTICE OF CROSS-EXAMINATION OF NOAH CHILLINGWORTH**

Pursuant to the Stipulation entered into by the parties and filed with the Board on October 4, 2013 (Document No. 56), Petitioner CHRISTIAN M. ZIEBARTH hereby notifies Registrant DEL TACO, LLC ("Del Taco") that he will take live, cross-examination testimony of Noah Chillingworth for use as authorized by the Federal Rules of Civil Procedure and the Trademark Rules of Practice in response to his affidavit filed with the Board on January 16, 2014 (Document No. 78). Such live cross-examination will take place at AMEZCUA-MOLL & ASSOCIATES, P.C., Lincoln Professional Center, 1122 E. Lincoln Ave., Suite 203, Orange, California 92865 before an officer authorized to administer oaths and will be recorded by stenography. Such live cross-examination will take place at a date and time that is mutually





agreed upon by the parties within ten days of service of this Notice of Cross-Examination  
Deposition pursuant to the Stipulation.

CHRISTIAN M. ZIEBARTH

By /Kelly K. Pfeiffer./  
Attorney for Petitioner  
Kelly K. Pfeiffer  
AMEZCUA-MOLL & ASSOCIATES, P.C.  
Lincoln Professional Center  
1122 E. Lincoln Ave., Suite 203  
Orange, CA 92865

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **NOTICE OF CROSS-EXAMINATION OF NOAH CHILLINGWORTH** was served upon April L. Besl, DINSMORE & SHOHL, LLP, attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on January 21, 2014 and addressed as follows:

April L. Besl, Esq.  
DINSMORE & SHOHL, LLP  
255 East Fifth Street, Suite 1900  
Cincinnati, OH 45202

/Kelly K. Pfeiffer/\_\_\_\_\_  
Kelly K. Pfeiffer  
AMEZCUA-MOLL & ASSOCIATES, P.C.  
Lincoln Professional Center  
1122 E. Lincoln Ave., Suite 203  
Orange, CA 92865  
Attorney for Petitioner CHRISTIAN M. ZIEBARTH

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**TRADEMARK TRIAL AND APPEAL BOARD**

CHRISTIAN M. ZIEBARTH,

Petitioner,

vs.

DEL TACO LLC

Respondent.

Reg. No. 1,043,729  
Cancellation No. 92053501

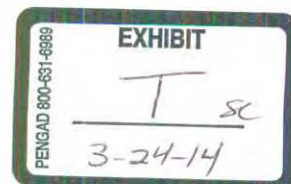
**TESTIMONY AFFIDAVIT OF NOAH CHILLINGWORTH**

I, Noah Chillingworth, first being duly sworn and cautioned, solemnly and truly declare as follows:

1. I am the Vice President of Marketing for the Respondent, Del Taco LLC ("Del Taco"). I have been employed with Del Taco since February of 2009 and previously served as the Senior Director of Brand Marketing and Advertising. I have personal knowledge of the facts stated herein.

2. I am informed and believe that the NAUGLES brand has been owned and used by Del Taco and its predecessors since 1988 in connection with Del Taco's restaurant services. I am informed and believe that while Del Taco stopped using the NAUGLES trademark as the actual name of a restaurant on October 25, 1995, it has never stopped using the mark in connection with its restaurant services. I am informed and believe that since 1995 Del Taco has used the NAUGLES mark in advertising and on clothing.

3. Attached hereto and previously marked as Exhibit 11 is an example of advertising previously used by Del Taco in connection with its restaurant services prominently featuring the NAUGLES mark.



4. I am informed and believe that Del Taco has also used the NAUGLES mark on the official Del Taco website advertising its restaurant services.

5. As noted previously, Del Taco also uses the mark NAUGLES in connection with clothing items. Attached as Respondent's Exhibit 29 is a true and accurate copy of articles of clothing sold by Del Taco in connection with its use of the NAUGLES mark for restaurant services.

6. I have personal knowledge of and am informed and believe that since 1988, Del Taco has consistently offered menu items that were originally sold in NAUGLES named restaurants owned by the prior owner, Naugles, Inc. I am informed and believe that consumers recognize these items as part of a "NAUGLES Secret Menu" within Del Taco's restaurant services.

7. In April 2009, prior to the filing of this action by Petitioner Christian Ziebarth, Del Taco began planning a new advertising campaign called "NAUGLES Secret Menu" for its restaurant services. This campaign would play on the consumer driven "NAUGLES Secret Menu." Attached hereto as Exhibits 30 (CONFIDENTIAL) and 31 (CONFIDENTIAL) are true and accurate copies of marketing presentations made in April 2009 and June 2010 discussing the details of the "NAUGLES Secret Menu" campaign among other items.

8. Given Del Taco's longstanding history and use of the NAUGLES trademark, I am informed and believe that the public recognizes the NAUGLES brand as associated with Del Taco's restaurant services and that Del Taco is the owner of the NAUGLES trademark and brand.

9. I am personally aware of Petitioner Christian Ziebarth. I know him as a food blogger who has attempted to contact me through Barbara Caruso. Del Taco has a policy against accepting outside solicitations and ideas with respect to its intellectual property, brands, and marketing campaigns.



The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that all statements made of his knowledge are true and that all statements made on information and belief are believed to be true.

Executed on January 16, 2014 in LAKE FOREST, California.

Noah Chillingworth  
NOAH CHILLINGWORTH

State of California

County of Orange

Sworn to and subscribed before me this 16 day of January, 2014.

Miryam Hernandez  
NOTARY PUBLIC



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was sent by first-class mail, with courtesy copy via email, on this 16<sup>th</sup> day of January, 2014, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

*/ April L Besl /*

\_\_\_\_\_  
April L Besl

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**TRADEMARK TRIAL AND APPEAL BOARD**

CHRISTIAN M. ZIEBARTH,

Petitioner,

vs.

DEL TACO LLC

Respondent.

Reg. No. 1,043,729  
Cancellation No. 92053501

**RESPONDENT DEL TACO LLC'S NOTICE OF RELIANCE  
(REGISTRATION OF NAUGLES)**

Pursuant to Rule 704.03(b)(1)(A) of the Trademark Trial and Appeal Board Manual of Procedure and 37 CFR § 2.122(d), Respondent Del Taco LLC ("Del Taco"), by its counsel, hereby gives notice that Del Taco offers into evidence and will rely on the its registration for NAUGLES, U.S. Registration No. 4,261,951. A copy of the registration and a current printout of information from the electronic database records of the Trademark Office are attached hereto.

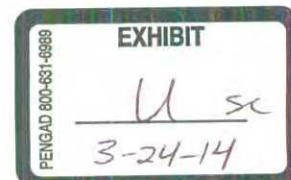
Respectfully Submitted,

Dated: **January 14, 2014**

*/ April L Besl /*

April L. Besl  
Joshua A. Lorentz  
DINSMORE & SHOHL LLP  
255 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8527-direct  
(513) 977-8141-fax  
april.besl@dinslaw.com

*Attorneys for Respondent  
Del Taco LLC*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was sent by certified first-class mail, with courtesy copy via email, on this 14<sup>th</sup> day of January 14, 2014, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

*/ April L Besl /*  
\_\_\_\_\_  
April L Besl



**United States of America**  
United States Patent and Trademark Office

**NAUGLES**

**Reg. No. 4,261,951**

**Registered Dec. 18, 2012**

**Int. Cl.: 25**

**TRADEMARK**

**PRINCIPAL REGISTER**

DEL TACO LLC (CALIFORNIA LIMITED LIABILITY COMPANY)  
25521 COMMERCE DRIVE  
LAKE FOREST, CA 92630

FOR: CLOTHING, NAMELY, SHIRTS, T-SHIRTS, HATS, AND JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39)

FIRST USE 9-15-2011; IN COMMERCE 9-15-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 1,043,729.

SN 85-281,037, FILED 3-30-2011.

ANN E. SAPPENFIELD, EXAMINING ATTORNEY



*David J. Kyros*

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

**First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

**Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE:** Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

Generated on: This page was generated by TSDR on 2014-01-13 16:52:10 EST

Mark: NAUGLES

NAUGLES

US Serial Number: 85281037

Application Filing Date: Mar. 30, 2011

US Registration Number: 4261951

Registration Date: Dec. 18, 2012

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Dec. 18, 2012

Publication Date: Oct. 04, 2011

Notice of Allowance Date: Apr. 03, 2012

## Mark Information

Mark Literal Elements: NAUGLES

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Related Properties Information

Claimed Ownership of US  
Registrations: 1043729

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: Clothing, namely, shirts, t-shirts, hats, and jackets

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 15, 2011

Use in Commerce: Sep. 15, 2011

## Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

## Current Owner(s) Information

Owner Name: Del Taco LLC

Owner Address: 25521 Commercentre Drive  
Lake Forest, CALIFORNIA 92630  
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where  
Organized: CALIFORNIA

## Attorney/Correspondence Information

Attorney of Record

Attorney Name: Joshua A. Lorentz

Attorney Primary Email [joshua.lorentz@dinslaw.com](mailto:joshua.lorentz@dinslaw.com)

Attorney Email No



Address:

Authorized:

Correspondent

Correspondent JOSHUA A. LORENTZ  
Name/Address: DINSMORE & SHOHL LLP  
255 E 5TH ST STE 1900  
CINCINNATI, OHIO 45202-1971  
UNITED STATES

Phone: 513-977-8200

Fax: 513-977-8141

Correspondent e-mail: [joshua.lorentz@dinslaw.com](mailto:joshua.lorentz@dinslaw.com)

Correspondent e-mail Yes  
Authorized:

Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Dec. 18, 2012	REGISTERED-PRINCIPAL REGISTER	
Nov. 15, 2012	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Nov. 14, 2012	LAW OFFICE REGISTRATION REVIEW COMPLETED	68123
Nov. 13, 2012	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Oct. 03, 2012	STATEMENT OF USE PROCESSING COMPLETE	71034
Oct. 01, 2012	USE AMENDMENT FILED	71034
Oct. 02, 2012	CASE ASSIGNED TO INTENT TO USE PARALEGAL	71034
Oct. 01, 2012	TEAS STATEMENT OF USE RECEIVED	
Apr. 03, 2012	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Feb. 17, 2012	EXTENSION OF TIME TO OPPOSE PROCESS - TERMINATED	
Nov. 01, 2011	EXTENSION OF TIME TO OPPOSE RECEIVED	
Oct. 04, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 04, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 04, 2011	PUBLISHED FOR OPPOSITION	
Aug. 30, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Aug. 30, 2011	ASSIGNED TO LIE	68123
Aug. 16, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 09, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Aug. 09, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Aug. 09, 2011	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jul. 05, 2011	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jul. 05, 2011	NON-FINAL ACTION E-MAILED	6325
Jul. 05, 2011	NON-FINAL ACTION WRITTEN	73711
Jun. 26, 2011	ASSIGNED TO EXAMINER	73711
Apr. 04, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Apr. 03, 2011	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 14, 2012

## Assignment Abstract Of Title Information

### Summary

Total Assignments: 1

Registrant: Del Taco LLC

### Assignment 1 of 1

Conveyance: SECURITY INTEREST

Reel/Frame: [4995/0534](#)

Pages: 11

Date Recorded: Apr. 01, 2013

Supporting Documents: [assignment-tm-4995-0534.pdf](#)

Name: DEL TACO LLC  
Legal Entity Type: LIMITED LIABILITY COMPANY

Assignor

Execution Date: Apr. 01, 2013  
State or Country Where Organized: CALIFORNIA

Name: GENERAL ELECTRIC CAPITAL CORPORATION  
Legal Entity Type: CORPORATION

Assignee

State or Country Where Organized: NEW YORK

Address: 299 PARK AVENUE  
NEW YORK, NEW YORK 10171

Correspondent

Correspondent Name: CORPORATION SERVICE COMPANY  
Correspondent Address: 1090 VERMONT AVENUE NW, SUITE 430  
WASHINGTON, DC 20005

Domestic Representative - Not Found

## Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Extension of Time

Proceeding Number: 85281037

Filing Date: Nov 01, 2011

Status: Terminated

Status Date: Feb 17, 2012

Interlocutory Attorney:

Defendant

Name: Del Taco LLC

Correspondent Address: JOSHUA A. LORENTZ  
DINSMORE & SHOHL LLP  
255 E 5TH ST STE 1900  
CINCINNATI OH , 45202-1971  
UNITED STATES

Associated marks

Mark	Application Status	Serial Number	Registration Number
NAUGLES	Registered	<u>85281037</u>	<u>4261951</u>

Potential Opposer(s)

Name: ChristianMZiebarth

Correspondent Address: Gregory B. Phillips  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street14th Floor  
Irvine CA , 92614  
UNITED STATES

Correspondent e-mail: [efiling@kmob.com](mailto:efiling@kmob.com) , [gregory.phillips@kmob.com](mailto:gregory.phillips@kmob.com)

Prosecution History

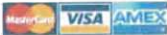
Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED	Nov 01, 2011	
2	EXTENSION OF TIME GRANTED	Nov 01, 2011	

SEARCH

Home > Naugles >  
Naugles T-shirt - Piped

CATEGORIES

- Apparel & Headwear
- Retro Del Taco
- Hot Sauce
- Naugles
- Gift Cards
- Merchandise



Our Price: **\$19.99**

Product Code: 190

Choose your options...

choose a color

color\*: ☐ Brown

choose a size

size\*: ☐ Small

Qty: 1

Add to cart

★ Add to Wish List



8+1 Like Share 33

Description

Now you can own a classic! 100% cotton, 5.3 ounce pre-shrunk T-shirt. Double needle stitched neckline, bottom hem, and sleeve. Screen-printed vintage Naugles logo on chest.

Features

- 100% cotton, Great for summer time, Naugles original Logo on the front of the shirt

Related Items

Naugles Original Baseball Cap  
Our Price: **\$14.99**



COMPANY INFORMATION

- About Us
- Terms of Use
- Privacy Policy/Your California Privacy Rights
- Help

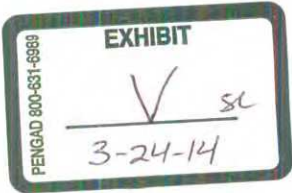
MY ACCOUNT

- Login/Register
- Orders
- My Wishlist

COPYRIGHT © 2014 • WWW.DELTACOWEBSTORE.COM • ALL RIGHTS RESERVED

Powered By TMU Logistics

Powered with Volusion shopping cart software



SEARCH

CATEGORIES

- Apparel & Headwear
- Retro Del Taco
- Hot Sauce
- Naugles
- Gift Cards
- Merchandise



Home > Naugles >  
Naugles Original Baseball Cap



Our Price: **\$14.99**

Product Code: 191

Choose your options...

choose a color

color\*: ☐ Brown

Qty: 1

Add to cart >

★ Add to Wish List



8+1 Like Share 27

Description

Own a classic! Garment washed 100% cotton twill. Six panel unstructured hugger shape. Screen-printed vintage Naugles logo on crown. Adjustable to fit most head sizes.

Related Items

Naugles T-shirt - Piped  
Our Price: **\$19.99**



COMPANY INFORMATION

- About Us
- Terms of Use
- Privacy Policy/Your California Privacy Rights
- Help

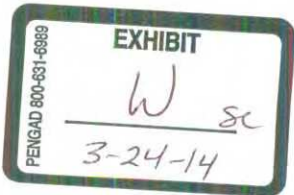
MY ACCOUNT

- Login/Register
- Orders
- My Wishlist

COPYRIGHT © 2014 • WWW.DELTACOWEBSTORE.COM • ALL RIGHTS RESERVED

Powered By TMU Logistics

Powered with Volusion shopping cart software





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**TRADEMARK TRIAL AND APPEAL BOARD**

CHRISTIAN M. ZIEBARTH,

Petitioner,

vs.

DEL TACO LLC

Respondent.

Reg. No. 1,043,729  
Cancellation No. 92053501

**RESPONDENT DEL TACO LLC'S NOTICE OF RELIANCE**

Pursuant to Rule 704.08(b) of the Trademark Trial and Appeal Board Manual of Procedure and 37 CFR § 2.122(e), Respondent Del Taco LLC ("Del Taco"), by its counsel, hereby gives notice that Del Taco offers into evidence and will rely on the following documents:

- Exhibit 16 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on February 8, 2003. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 17 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on April 9, 2003. This evidence is relevant to Del Taco's use of the trademark NAUGLES.





- Exhibit 18 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on June 4, 2003. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 19 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on December 9, 2003. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 20 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on February 5, 2004. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 21 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on April 12, 2004. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 22 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on August 15, 2004. This evidence is relevant to Del Taco's use of the trademark NAUGLES.

- Exhibit 23 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on December 4, 2004. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 24 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on February 4, 2005. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 25 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on September 7, 2005. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 26 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on December 24, 2005. This evidence is relevant to Del Taco's use of the trademark NAUGLES.
- Exhibit 27 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on April 9, 2006. This evidence is relevant to Del Taco's use of the trademark NAUGLES.

- Exhibit 28 is a screenshot from the Wayback Machine located at <https://www.archive.org> displaying the Del Taco website ([www.deltaco.com](http://www.deltaco.com)) as visible on October 16, 2006. This evidence is relevant to Del Taco's use of the trademark NAUGLES.

Respectfully Submitted,

Dated: **January 16, 2014**

*/ April L Besl /*

April L. Besl  
Joshua A. Lorentz  
DINSMORE & SHOHL LLP  
255 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8527-direct  
(513) 977-8141-fax  
april.besl@dinslaw.com

*Attorneys for Respondent  
Del Taco LLC*


**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was sent by first-class mail, with courtesy copy via email, on this 16<sup>th</sup> day of January, 2014, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

/ April L Besl /

April L Besl











60

.....1960s.....1970s.....1980s.....1990s.....2000s.....2010s.....

HISTORY



MORE

PENGAD 800-831-6889

EXHIBIT

Y

SL

3-24-14



FOOD

CONNECT

SPECIALS

LOCATIONS

60

# 1960s

## A BRAVE NEW VENTURE

Ed Hackbarth and David Jameson opened the first Del Taco in Yermo, CA in 1964. With a menu of 19¢ tacos, tostadas, fries and 24¢ cheeseburgers, Del Taco brought in \$169 in sales on its first day in business - the equivalent of 900 tacos. Things were off to a bold start.



THINGS  
WERE  
OFF TO  
A BOLD  
START



# 1970s





FOOD

CONNECT

SPECIALS

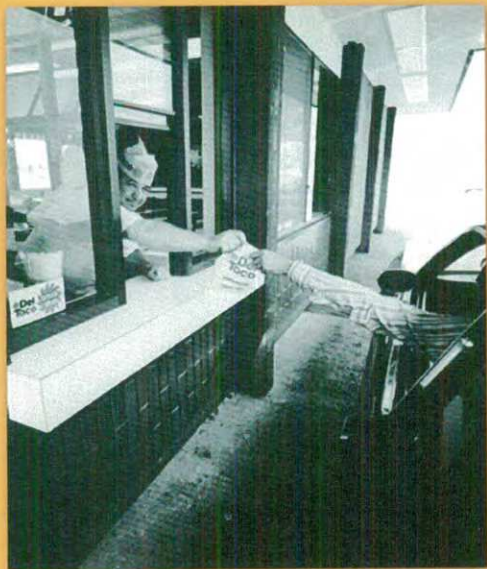
LOCATIONS

GO

# GROWING RAPIDLY

1970s

Del Taco thrived during the 1970s. By 1977 there were 50 restaurants and by 1978 there were 100. The menu also grew, expanding to include items like the bun taco, quesadilla and ice cream sundaes.



BY 1978  
THERE WERE  
**100**  
RESTAURANTS



1980s



FOOD

CONNECT

SPECIALS

LOCATIONS

60

# DEL ACQUISITIONS


1980s

In 1988, Del Taco greatly increased in size and geographic reach by merging with Naugles restaurant chain. Del Taco also began to stay open all night to serve the growing needs of the new 24/7 lifestyle.



1990s





FOOD

CONNECT

SPECIALS

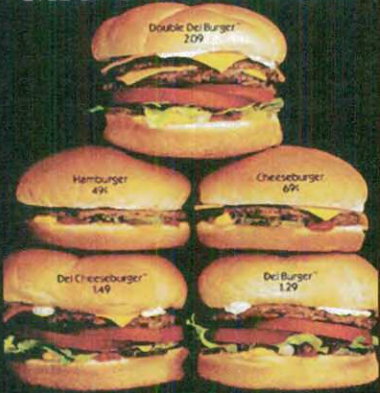
LOCATIONS

GO

1990s


In the 90s Del Taco set the stage for extreme growth by launching a series of initiatives to improve the total customer experience and grow the brand's image, including a new logo design.


MAJOR BURGERS



MINOR COINAGE

We've taken major steps in burger evolution. Like an all-new Hamburger for only 49¢. Plus a juicy cheeseburger for just 69¢. Or if you're hungry for even more, try our Double beef double cheese Double Del. But any way you order, they're all big on taste without taking a big bite from your wallet.





EXTREME GROWTH

TACO NITE

EVERY TUESDAY

THREE 99¢ TACOS FOR ONLY 99¢ AFTER 3:00 P.M.

2000s

GIFT CARDS

WEBSTORE

HISTORY


NEWS


CAREERS


FRANCHISING


CONTACT US


SITE MAP

















Privacy Policy/Your California Privacy Rights

Terms of Use

5 of 7

1/22/2014 1:05 PM



FOODCONNECTSPECIALSLOCATIONS

GO

# GOING BOLD

2000s

By 2006, Del Taco nearly doubled in size and opened the 500th restaurant in 2008. An exciting new dessert was also introduced to the menu that has since become a fan favorite: Caramel Cheesecake Bites. Additionally, the Del Taco Super Special Show launched, treating our fans to a humorous take on our brand.



## CRISPY SHRIMP IS BACK!



- CRISPY GOLDEN SHRIMP
- FRESHLY MADE SALSA
- CRUNCHY CABBAGE
- SECRET SAUCE
- FLOUR TORTILLA



- CRISPY FISH & FRIES
- CRISPY FISH FILET
- DEL TACO'S WORLD FAMOUS CRUMBLY CUT FRIES
- CHOICE OF ANCHO, BAJA OR SECRET SAUCE

Available for a limited time. Price and Participation May Vary.



DEL TACO  
NEARLY  
DOUBLED  
IN SIZE

GO BOLD



2010s





FOOD

CONNECT

SPECIALS

LOCATIONS

60

# A FRESH APPROACH

# 2010s

With new management, additional private equity support, a new refreshed logo and a new contemporary restaurant prototype, Del Taco returned to Texas and Georgia, and also expanded into new markets in Colorado and the Pacific Northwest.

## BUCK & UNDER MENU

STARTING AT JUST

50¢

75¢

\$1



## UNFRESHING BELIEVABLE



REAL INGREDIENTS. REAL LOW PRICES.



In 2013, Del Taco successfully completed its remodeling of restaurants, creating a much lighter, fresher, and more contemporary look. A new “UNFRESHINGBELIEVABLE” ad campaign also launched to communicate the preparation methods and many fresh ingredients that Del Taco restaurants use, like freshly grilled marinated chicken, slow-cooked beans made from scratch, and hand-grated cheddar cheese.

Del Taco’s launch of its new Buck & Under Menu offers customers incredible variety with items just starting at 50¢.

BACK TO TOP